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FREDERICK EDWIN
EARL OF BIRKENHEAD
THE FIRST PHASE



FREDERICK EDWIN EARL OF BIRKENHEAD

THE FIRST PHASE

By
HIS SON
THE EARL OF BIRKENHEAD

FOREWORD BY
The Rt. Hon. WINSTON S. CHURCHILL, C.H.



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I

TO
MY MOTHER

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BIRKENHEAD.

ERRATA

- p. 84, line 10, *for* "Mr. Justice Greer" *read* "Lord Justice Greer"
- p. 118, line 1, *for* "Harvey" *read* "Harley"
- p. 130, lines 17 and 23, *for* "Avery" *read* "Avory"
- p. 160, line 30, *for* "chords" *read* "strains"
- p. 266, line 32, *for* "Birkenhead" *read* "Thornton Hough"
- p. 313, *after* line 20, first column, *insert* "Asquith, Miss Violet,
229"
- p. 315 delete line 6 first column
- p. 316, line 32, first column, *delete* "Sir"
line 43, first column, *for* "Harvey" *read* "Harley"
and *for* "117" *read* "118"

FOREWORD

BY THE RT. HON. WINSTON S. CHURCHILL, C.H.

THE biography of a father by his son is an undertaking fraught with some peculiar difficulties, but also aided by important advantages. The author of this deeply interesting work has allowed himself all the latitude which is necessary to present a full and true picture to the reader without writing anything that would be unbecoming in him; and the intimate knowledge and personal devotion which have inspired him make his book not only welcome to a wide public, but pleasant and comforting to all friends of the late Lord Birkenhead.

I did not come to know him till he was thirty-four. An ardent Conservative, he was angry with me for leaving that party on the Protection issue. His own father had been in the 'eighties a keen admirer of Lord Randolph Churchill, and had taught him to embrace not only the conceptions of Tory democracy, but to think kindly of one who had done much to make it a living force in modern politics. "F. E.", to use his famous soubriquet, felt a strong antagonism to me for breaking a continuity. He did not wish to meet me. It was only after the Parliament of 1906 had run some months of its course that we were introduced to one another by a common friend as we stood at the bar of the House of Commons before an important division. But from that hour our friendship was perfect. It was one of my most precious possessions. It was never disturbed by the fiercest party fighting. It was never marred by the slightest personal difference or misunderstanding. It grew stronger as nearly a quarter of a century slipped by, and it lasted till his untimely death. The pleasures and instruction of his companionship were of the highest order. The world of affairs and the general public saw in F. E. Smith a powerful, pugnacious personality, trampling his way across the battlefields of life, seizing its prizes as they fell, and triumphing

in his prowess. They saw his rollicking air. Acquaintances and opponents alike felt the sting of his taunts or retorts in the House of Commons and at the Bar. Many were prone to regard him as a mere demagogue whose wits had been sharpened upon the legal grindstone. It is a judgment which those who practise the popular arts before working-class audiences in times of faction are likely to incur. The qualities which lay behind were not understood by his fellow-countrymen, till the last ten years of his life.

But his close friends, and certainly I, acclaimed him for what he was—a sincere patriot; a wise, grave, sober-minded statesman; a truly great jurist; a scholar of high attainments; and a gay, brilliant, loyal, lovable being. We made several considerable journeys together. We both served in the Oxfordshire Hussars. We were repeatedly together at Blenheim. We met and talked on innumerable occasions: never did I separate from him without having learned something, and enjoyed myself besides. He was always great fun; but more than that he had a massive common sense and a sagacious comprehension which made his counsel invaluable, whether in public broil or private embarrassment. He had all the canine virtues in a remarkable degree—courage, fidelity, vigilance, love of the chase. He had reached settled and somewhat sombre conclusions upon a large number of questions, about which many people are content to remain in placid suspense. Man of the world; man of affairs; man of the law; adept at the written or spoken word; athlete; sportsman; booklover—there were few topics in which he was not interested, and whatever attracted him, he could explain and embellish.

But with all his versatility, he was one of the most consistent men I ever knew. His political action through all the convulsions of our time was of a piece. It lay upon the same plane and advanced through the same processes of thought to the same end. He was always one of those Tories who united pride in the glories of England to an earnest sympathy with the wage-earning masses and cottage homes. He dwelt with pride upon his humble origin, he exaggerated it, and boasted of it. He exulted in the free and civilised society which opened the most spacious opportunities to talent, however poor in gear or favour. He was never so rigid a party man as was inferred from the uncompromising vigour and partisanship

of his pre-war speeches. The idea of a national party or government always appealed to him. Indeed it excited him. His unswerving friendship and admiration for Mr. Lloyd George dated from our attempt in 1910 to form a national coalition to settle the Irish and constitutional issues then at stake, and to prepare against the European perils then already visible to many eyes. His mind was never really sealed against a Home Rule policy, provided that the rights of Ulster were effectively defended. The latter part of his life saw many things accomplished with his assistance which his heart had desired, or at least his mind had never rejected.

Eighteen years ago when the first coalition was formed, and I began again to work with the Tories, in everything but Protection, we found ourselves colleagues, first in war and afterwards in peace. For nearly ten years we sat together in Cabinet; and I can hardly recall any question, certainly none of first importance, upon which we were not in hearty and natural agreement. Most of all do I deplore his absence now that the future of India is at stake. But to pursue this further would trespass beyond the limits of this volume.

For all the purposes of discussion, argument, exposition, appeal or altercation F. E. had a complete armoury. The bludgeon for the platform; the rapier for a personal dispute; the entangling net and unexpected trident for the Courts of Law; and a jug of clear spring water for an anxious perplexed conclave. Many examples are given by his son of his use of these various methods. There can scarcely ever have been a more sustained, merciless interchange than took place between him and Judge Willis in the Southwark County Court. Such a dialogue would be held brilliant in a carefully written play, but that these successive rejoinders, each one more smashing than the former, should have leapt into being upon the spur of the moment is astonishing. He always was able, in any setting, as I can testify, to give an answer which turned the laugh, if it did not turn the company against his assailant. People were afraid of him and of what he would say. Even I who knew him so well refrained from pushing ding-dong talk too far when others were present lest friendship should be endangered.

I cannot speak of his forensic success for I only heard him once address a Court of Law. I did not think him so good in the House of Commons as upon the platform or at a public

dinner. He was only a comparatively short time—ten or twelve years—in the House and his character and style were formed upon other moulds. Still no one can contest his many remarkable Parliamentary feats. He seemed to me more at home in the House of Lords and more dominating upon the assembly than ever in the lower chamber. To hear him wind up a debate from the Woolsack, speaking for an hour at a time without a note, without a gesture, with hardly an alteration of tone, dealing with point after point, weaving them all into an ordered texture of argument, darting aside now here now there upon some retaliatory foray, but returning always surely and easily to his main theme, and reaching his conclusion without the slightest appearance of effort; all this constituted an impressive and enviable gift.

He was good upon the platform because he understood thoroughly the outlook, feelings and prejudices of the ordinary patriotic Tory man in the street. This same quality helped him with a jury. He could strike with faultless accuracy the simple major keynotes to which the full-blooded English father or husband or eager youngster would respond; and he spoke with the greatest confidence and absolute spontaneity upon all the most delicate questions of life and morals, sportsmanship and fair play.

But most of all I liked to hear him in the Cabinet. I trust I shall violate no secrecy when I say that he was a singularly silent member. He had acquired in the legal profession the habit of listening mute and motionless hour after hour and he rarely spoke until he was appealed to for his counsel. Then his manner was so quiet, so reasonable, so matter-of-fact and sensible that you could feel opinion being changed; and promptly as he warmed to his subject, there grew that glow of conviction and appeal, instinctive and matchless, which constitutes true eloquence. Often I have thought of Mr. Pitt's famous translation of some Latin epigram, which if he were here F. E. would tell me,—“Eloquence is like the flame. It requires fuel to feed it, motion to excite it, and it brightens as it burns.” In my experience he and Mr. Lloyd George were both at their best in gatherings of ten or a dozen men, every one of whom was well-informed upon the question at issue and upon whom the effect of claptrap in any of its innumerable varieties would only be disastrous.

I have said he was remarkably consistent in opinion. He was more ; he was persistent. In every affair public or personal if he was with you on the Monday, you would find him the same on the Wednesday, and on the Friday when things looked blue, he would still be marching forward with strong reinforcements. The opposite type of comrade or ally is so very common that I single this out as a magnificent characteristic. He loved pleasure ; he was grateful for the gift of existence ; he loved every day of his life. But no one could work harder. From his youth he worked and played with might and main. He had a singular power of concentration and five or six hours of sustained thought upon a particular matter was always within his compass. He possessed what Napoleon praised, the power "*de fixer les objets longtemps sans être fatigué*". No doubt he presumed often in his legal work upon his great quickness of mastering a difficult field and getting to the roots. He was never entangled in the briars of detail. I remember after he had taken silk and was in the front rank at the Bar, how it was the fashion in the Liberal Government circles of those days to say that he had no real grasp of the fundamentals of the law. I lived to see him take his place among the great Lord Chancellors who have interpreted that marvellous structure of English good sense and right feeling.

His son tells us of his becoming a Privy Councillor at the coronation in 1910. I think I had something to do with that. I knew Mr. Asquith thought highly of him and liked his mind with refined professional appreciation. I urged his inclusion as a Privy Councillor in the non-party honours list. The author tells us of the curious reaction which this proposal by the Prime Minister produced upon Mr. Balfour, then leader of the Opposition. I do not think it was jealousy or fear of subsequent complications. Mr. Balfour had his long-built-up ideas about how patronage and promotions should be distributed among members of the party over which he and his uncle had reigned for a generation. At any rate he opposed it, and in order to carry the proposal it was found necessary to confer another Privy Councillorship upon Mr. Bonar Law. This probably turned the scale in favour of Mr. Bonar Law's leadership and may traceably have altered the course of history. However, it is always being altered by something or other.

It would be easy to transgress the limits I must assign myself,

but I have regarded it as a rare privilege to be invited to put down these few words about a man I admired so much and liked so well. He is the only one of my contemporaries from conversation with whom I have derived the same pleasure and profit as I got from Balfour, Morley, Asquith, Rosebery and Lloyd George. One did feel after a talk with these men that things were simpler and easier, and that Britain would be strong enough to come through all her troubles.

F. E. has gone, and gone when sorely needed. His record remains. It is not in every aspect a model for all to copy. Whose is? He seemed to have a double-dose of human nature. He burned all his candles at both ends. His physique and constitution seemed to be capable of supporting indefinitely every form of mental and physical stress. When they broke the end was swift. Between the setting of the sun and night there was only the briefest twilight. It was better so. Prolonged ill-health and deprivation of all the activities upon which his life was built would have pressed very hard upon him.

It must surely be an inspiration to youth to learn in the career of the first Earl of Birkenhead that there is no bar of class, privilege or riches in our island home to prevent the full fruition of outstanding capacity. Some men when they die after busy, toilsome, successful lives leave a great stock of scrip and securities, of acres or factories or the goodwill of large undertakings. F. E. banked his treasure in the hearts of his friends, and they will cherish his memory till their time is come.

ANCESTRY AND EARLY LIFE (1872-85)

WHEN in 1919 Sir Frederick Smith was created a Peer, he inscribed on his crest the defiant caption, "*Faber Meae Fortunae*"—Smith of my own fortune. He did not disdain the title of adventurer, and was proud in his denial of indebtedness to inherited rank or wealth. His constantly acknowledged debt was to inherited ability and character, to the humble but virile North Countrymen from whom he sprang. His great-grandfather, Thomas Smith, was a miner living a hundred years ago at Rothwell, and working in a pit at Allerton Bywater. He was the champion runner, and champion bare-knuckle fighter, of all the county. He was a sombre and unquestioning Nonconformist, a fond and ambitious father. He would not allow his son Thomas Smith to work in the pit with him, and suffer the labours which he had undergone himself. He put aside small sums from his own savings, and was able to settle his son as a schoolmaster in Wakefield, but the young man was restless and soon left his post to search for adventure. He made for the rapidly expanding North and his star led him to Birkenhead.

He was F. E. Smith's grandfather, a hard and forbidding Puritan, in whose sombre nature lay the burning fires of sect. He had a will of iron, and a harsh and dogmatic mind. There exists a letter written by him in faded but exquisite copper-plate, to a friend in 1836, which shows well the strength of his convictions and the piety of his character.

ANGLESEA, AMLWCH.

Aug. 5, 1836.

DEAR BROTHER,—

After a long delay I have fulfilled my promise in writing to you, the reason why I have not written before is not that you have been out of my mind, for I have thought of you very

frequently, but because I wanted to be settled ere I wrote. And now here I am on the island of Anglesea where two-thirds of the inhabitants speak Welsh. Only one small English chapel, the nearest place from Amlwch where we preach is twenty miles and there are but two local preachers here besides Myself, but we are united in Christian affection. My prospects are not flattering but I rest in the confidence that my steps are ordered of the Lord. And now my friend how are you getting on in the way to heaven? Is it well with thee? Are you labouring on at God's command, and offering all your works to him, giving all diligence to be a perfect man in Christ Jesus. To be very useful we must be very pious and our religion must be that of the Bible, scripturally energetic, practical. Abound in prayer: let the word of God dwell in you richly. Cleave to the ordinances of God, let your eye be single in all that you do for your divine Master—be moved with compassion towards perishing sinners and luke warm professors: try by all means to be instrumental of saving souls. "Whatsoever thy hand findeth to do, do it with thy might." I am unfeignedly thankful to God for his preserving goodness since I saw you. There are dangers on every hand in London. I found much both to grieve me and please me in the May meetings I attended at Exeter Hall. Were truly cheering. I preached several times in the chapel and twice in the open air: you wished me to inform you if I saw anything likely to send you but I durst not incur the responsibility of sending you to a scene of so much danger. I would advise you to commence teaching if your mind inclines that way. Your opportunities of mental improvement will be greater. Success is certain to application and perseverance. Will you write how you are spending your time—yr. intentions? Whether there is a revival of religion at Tockwith? Give my affectionate remembrance to the few friends I have at Tockwith and elsewhere who may inquire after my welfare. You know them, God bless them. If you have sold my desks please to forward the proceeds the best way you are able and the least expensive. Finally, my brother, pray for me that my faith fail not, but that I may stand, and having done all stand complete in Christ our common head.

Your sincere friend

in the bonds of Christ,

THOS. SMITH.

When Thomas Smith settled in Birkenhead he became a school-master again, and afterwards started in business as an estate agent. Towards the end of his life, when he was a blind old man and could no longer read to himself, he would approach strangers on the Mersey Ferry, Bible in hand, and ask them to read aloud to him.

This grim man made a remarkable marriage. His wife's past is full of mystery : all that is known is that her name was Bathsheba, and that she was said to be of gipsy stock, dark, handsome and temperamental, with brilliant Romany eyes, olive complexion and jetty ringlets. She was a masterful woman, given to sudden gusts of passion, which were dreaded by all in the house, and the fusion of this wild, dark creature with the Puritan Thomas Smith is a curious example of the mutual attraction of opposites, for the marriage was entirely successful, in spite of the fact that Bathsheba smoked, an extraordinary gesture in a woman of her circle and period.

Thomas Smith's eldest son Frederick was a far more vital and arresting character. Indeed, F. E. Smith attributed his inherited ability entirely to his father, and maintained that he had been a finer speaker than himself. Their early lives offer a significant parallel ; both were thrown upon their own resources at an age when many young men are entering life sheltered and supported by their parents.

The elder Frederick Smith, F. E.'s father, could not endure the cramping religious discipline of his home. One sunny day in December there was a sharp frost, and Frederick Smith decided to go skating. He spent all day on a frozen lake under the watery December sun, and returned home in the evening to find his father, who was a rigid Sabbatarian, in a black fury with a son who had defiled the Sabbath.

"There is no place for you", he said, "in a house of Christ."

"Do you mean that, father?" said Frederick.

"Yes, go," said the father.

Thus at seventeen, without money and with no friends to whom he could turn, Frederick Smith was thrust out into the world, dependent entirely upon his own robust self-confidence and passion to succeed.

He prospered in his self-chosen career ; first he entered the Army and was sent to India, where he saw active service upon the

North-West Frontier. At the age of twenty-one he was a sergeant-major. Nor did he starve the intellectual side of his nature. He remained cultivated and studious ; he wrote home to his parents that there was " an excellent library " in the mess-room, and that he kept his wits lubricated by teaching the officers' children Latin and French.

Soon he was called home to attend to the family business, and his energies were devoted to building it up and expanding it. He was wholly successful in this direction, but he found that the sedentary and mechanical life offered too little scope to a matured judgment and a widening ambition. He began to read for the Bar, and learned Latin afresh. The rooms where he worked were close to the Savoy Theatre, and he could tell the time by the snatches of Sullivan's limpid melodies which floated into his room through the open window.

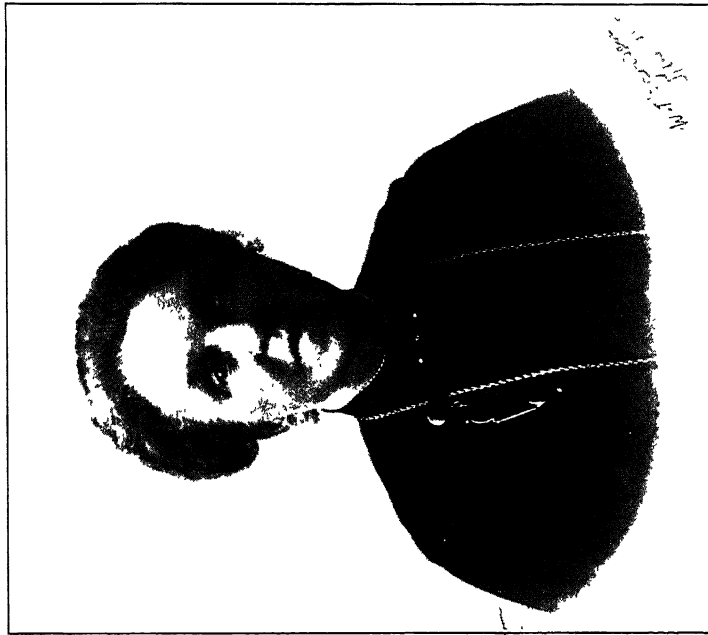
He joined the Inner Temple, and read in the chambers of F. A. Inderwick, K.C., and quickly attained legal distinction. Had he not been disqualified by age, he would have won several prizes in the Bar examinations. When he had passed them, he found briefs waiting for him from Liverpool solicitors.

Meanwhile he had been elected Mayor of Birkenhead, and was recognised as one of the best speakers in the North of England. He appeared on the verge of a brilliant legal and Parliamentary career ; but all this promise was suddenly extinguished by a neglected illness developing into pneumonia. Frederick Smith died at the early age of forty-three, to the despair and misery of his wife and children.

Frederick Edwin was born on July 12, 1872, " Orangeman's Day ", as the curious afterwards observed. He was the eldest son of his family of five, and had two brothers and two sisters.

It was soon evident that the fires of Puritanism which had burned in the breast of the grandfather were now banked. F. E. Smith beguiled the tedium of enforced Church services by the surreptitious introduction of white mice into the family pew.

The life at home had been happy and regular ; the mother, Elizabeth Smith, was immersed in her house and her children. Every Sunday F. E. and his brothers Harold and Sidney were pressed unwillingly into Eton suits and top-hats and sent on charitable errands through the lowest slums of Birkenhead. The urchins in the gutter jeered as they passed : " Here come the little doctors ! "



ELIZABETH SMITH (*née* TAYLOR)
Mother of F. E. Smith



FREDERICK SMITH
Father of F. E. Smith

The father was not wealthy, but could afford various luxuries—long summer holidays and visits to the Isle of Man, where at Port Skillion the boys dived from great heights and amazed onlookers by their skill and delight in the rough breakers. F. E. was taken by his father to Ireland and Scotland, and in two successive winters further afield to Cairo. The father treated the children as equals, but commanded absolute obedience and respect. He identified himself with all their interests, and never once raised his voice in anger. "My ambition", he said, "is to be the friend of my children, and when the last grows up, I mean to be Fred to them." He helped them with their work in the evening, when he was himself reading into the small hours for the Bar. He superintended their reading, strongly discouraged the reading of loosely-written books, and offered prizes for the best essay on a given book, prizes which were always carried off by F. E.

They lived in a comfortable home and had many recreations. "Roslyn", Clifton Park, was a pleasant Gothic house on two floors; the front door opened on to a square hall; to the right were two entertaining rooms: facing the front door was a staircase lighted by a stained-glass window depicting the four seasons in four separate panels. The three brothers, Frederick, Harold and Sidney, occupied two rooms which were still called night nurseries. F. E.'s was the inner room, and its only outlet was through the larger room. In it he first collected books; he loved old bindings and the possession of his small but growing library. The three boys were only separated by four years. They had pillow fights and dressed up to frighten the maids and their sisters, and quarrelled violently but happily. F. E. teased the others without mercy, but he was always kind and generous to them. Harold was usually the victim of the two elder brothers; once only did he triumph over them. When F. E. and Sidney Smith were suddenly attacked by those spots which so often accompany and agonise adolescence, Harold ingeniously painted on his face a rich cluster of pimples, so that his seniors should not feel "too conspicuous".

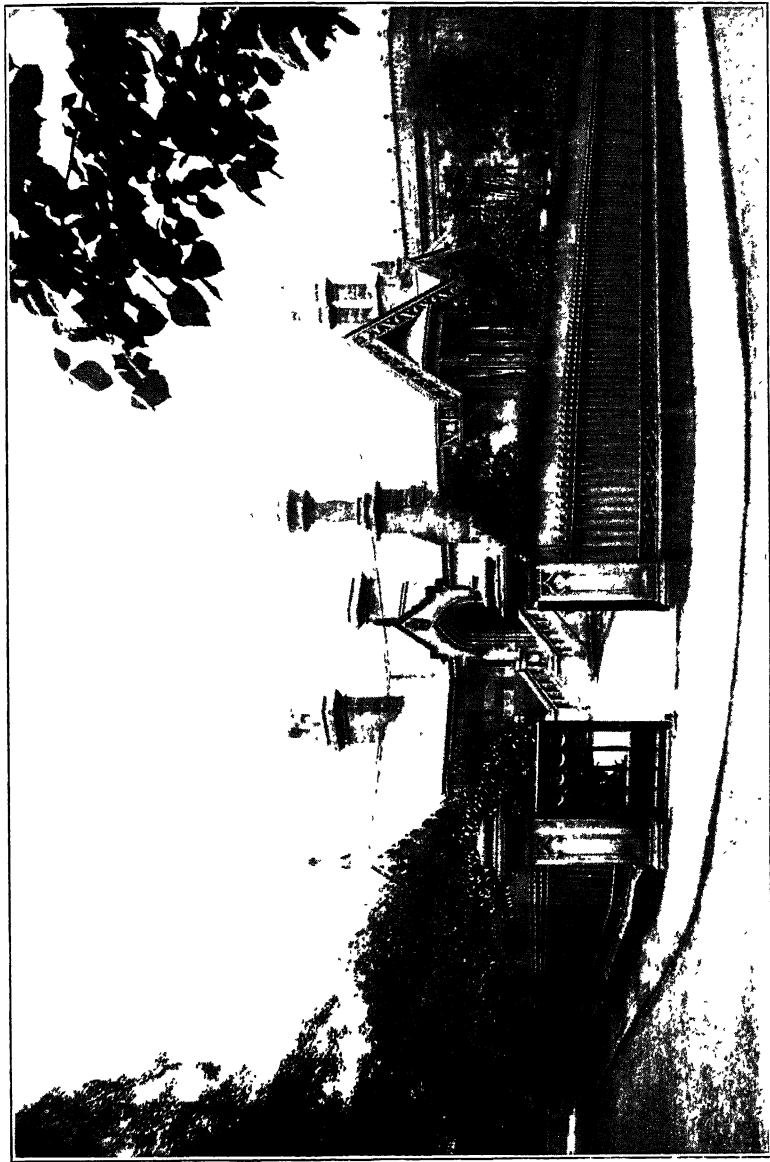
Several times the father took his sons to Egypt, for he suffered from a throat affliction, and Sir Morell Mackenzie had recommended a sea-voyage. He gave the children lessons every day on the ship, directed their reading, and insisted on their writing a synopsis of every book they read. In the evenings he grounded

them in the old-fashioned whist : they held one hand between them, and each was responsible until the others detected a fault, when the cards changed hands. F. E. had always dreamed of foreign travel and the secrets of strange lands, and was entranced when the ship's anchor splashed into the waters of the great port of Valencia, and when through a heat haze he saw the white houses which climbed up the Spanish coast-line and gleamed in the sunshine ; when he landed at the dusty island of Malta, and watched the Arabs in their white robes chattering in Algiers.

At Cairo the family used to stay at Shepherd's Hotel. F. E. would sit for hours on the terrace and watch the snake charmers with the cobras twined round their brown arms, and the conjurers to whom he offered his services in an attempt to expose their impostures. They made a hot excursion to the Pyramids on donkeys : F. E. and his sister decided to attack the Great Pyramid, but after climbing for a quarter of the way they were salvaged by a party of Arabs. They penetrated the Suez Canal as far as Ismailia, and F. E. was the first person to ride a high bicycle in the streets of Cairo, while his father ambled gracefully by his side on a white ass.

It was an unremarkable family life, but very happy and complete. There were holidays at the seaside, visits to the theatre and the pantomime, entertaining in the house, and occasional dances. There was no suggestion of that strain of poverty and squalor to which F. E. Smith was so fond of alluding in later life. At Gray's Inn Hall he recalled that on his majority his mother had given him three pounds ; this was completely untrue. Mrs. Smith gave ten pounds for each twenty-first birthday present as the occasion arose, and the brothers and sisters gave a joint present. F. E., generous even in those days, engineered this present for other members of the family. When he spoke of the poverty of his early life, he was exaggerating greatly the difficulties that opposed his career. He was contemplating this poverty as thrown into relief against the prosperity of his later life. The most difficult period through which the family passed was that following the father's death, while four children were still at school, but even at this period they were not really troubled for money, for F. E.'s uncle, Edward Payson Smith, came to the rescue at the one moment of crisis.

F. E. Smith was, in fact, never exposed to the sting of real want. Many distinguished men have risen from far greater



THE HOUSE IN WHICH F. E. SMITH WAS BORN

privations. He had never felt the spur to ambition which comes from hunger and penury. His life opened in the comfortable suburban dullness of a great northern town ; he was fired by no sense of social injury, felt no passionate desire to rise from a life of sordidness and gloom. His was the buttressed, uneventful life of the middle class in which the temptation is always strong to subside into the comfortable rut of family commerce. His imagination and desires soared naturally into the serene heights far above the smoky air of Birkenhead. His objectives at the age of eight were the Woolsack and 10, Downing Street.

He spent a short period at a private school at Southport. His father sent for him in his study for a last word of advice and encouragement. The elder Frederick Smith spoke to the son of his high hopes for the future. He told him that there was no glittering ambition from which he need shrink, no great office of State which was not at the mercy of industry and talent. Then with a sudden flash of prescience he said : " There is no reason why you should not become Lord Chancellor."

The child of nine was entranced ; avenues of glorious distinction seemed to open up before him. He felt that the Woolsack had already been offered and gracefully accepted. Arrived at school, he quickly pointed out to the other boys the prestige which would accrue to them as the friends of the Keeper of the King's Conscience, but they felt that promise alone could not justify such a claim, and the future Chancellor was unsympathetically treated.

Thirty-seven years later, when he was offered the Woolsack, he received three letters from his contemporaries at this school, which recalled his audacious boast, and congratulated him on its fulfilment.

BIRKENHEAD SCHOOL (1885-89)

WHEN he left the preparatory school at Southport, F. E. Smith met with his first rebuff. As a boy of thirteen he stood for a Scholarship at Harrow School, when Bishop Welldon was headmaster. He failed and was bitterly disappointed. Years afterwards he described the incident and said, "In those days the examiners rejected what were known as the half-wits after two days' examination, thereby making it plain that those who were so rejected were merely cumbering up the ground to the embarrassment of really promising youngsters." F. E. Smith was among the "half-wits". But time was to bring its consolations, and his pride was mollified by the fact that among his fellow "half-wits" were A. B. Ramsay, afterwards to become Lower Master of Eton College, Master of Magdalene, Cambridge, and one of the most polished Latinists in England; and Amery, who attained Cabinet rank, won two First Classes and a fellowship at All Souls, Oxford, became an amazing linguist and a versatile historian. Mrs. Smith and her son had made the long journey from Birkenhead to Harrow together. Young Smith felt that he had not distinguished himself. They returned to Birkenhead sunk in gloom; Mrs. Smith attempted to alleviate her son's distress by buying him half a bottle of unspeakable claret.

So eventually F. E. Smith was entered at Birkenhead School. The headmaster of the day was Canon Sloman, the well-known and scholarly editor of Terence, and a former President of the Oxford Union. Birkenhead School was and is renowned for its Rugby footballers. It was the nursery from which young players graduated into the famous Birkenhead Park Football Club. Many blues and internationals received their grounding in the game there. F. E. became a violent forward in the school fifteen.

An extraordinary display of scholarship also marked F. E. Smith's period in the Upper Sixth under Sloman. Of the five members of which it was composed, four obtained Fellowships at either Oxford or Cambridge—C. T. Wood, Duckworth, Patterson and Smith—while the fifth obtained an exhibition at Trinity College, Cambridge, a record which was at the date unapproached by any great public school in England.

At Birkenhead School Smith was immediately successful and without undue efforts managed to win every prize on which he set his heart. On Speech Days he bore an honourable part in the Greek and Latin plays, and Sloman in one of his reports remarked that he would go far.

His father took the greatest delight in these successes, and he would carry translations and poems for weeks in his pocket to show proudly to a few chosen and understanding friends. Smith's scholastic record at Birkenhead School was wholly successful, and he displayed therein an industry which deserted him during his first two years at Oxford. He was one of the last of this remarkable Sixth Form. On Speech Day in 1888 he won the Sir William Jackson Prize for English Literature, was second in the Brassey Prize for Modern History, and first in the French Prize.

In his last year, 1889, July, the following distinctions were recorded in his favour on Speech Day: The Ranger Scholarship at University College, Liverpool, the Sir William Jackson Prize for English Literature, the Cruttendon Prize for French, and the Headmaster's Prize for the English Essay. He left the rostrum "bowed down" with prizes, as a contemporary recalls.

Mr. Robson, now Vicar of Hemel Hempstead, has given an interesting memoir of Smith's boyhood. Robson was Smith's closest friend as a boy; they lived almost opposite to one another in Lorne Road, Claughton, and were at Birkenhead School together under Canon Sloman. Robson first met Smith as a raw but alert-looking schoolboy of fifteen whose father had just died. His death had made a great impression in the town, for he had just ended his remarkable career as Mayor of Birkenhead, and it was during his year of office that he died. F. E.'s mother took the house in Lorne Road which was almost opposite the vicarage of Robson's father, and there she brought up the family of which F. E. was the eldest son. He owed much to her, and was a devoted son. Sunday by Sunday he was to be

seen escorting her to the Wesleyan Chapel where she used to worship. So, too, he owed much to his father, who first inspired him with the sense of adventurous ambition, of dangers to be braved, and dizzy pinnacles to be scaled. One day Smith observed: "Robson, before I die, I mean to be either Prime Minister or Lord Chancellor of England." Mr. Robson was the first to recall this boast when in years later the ambition was realised. There is no doubt that this staunch self-confidence, this sense of the adventure of life, was due to his father's passionate ambition for the son. The father's interest in the development of his family was such that he would incorporate work with recreation. He would challenge F. E. to give a completely accurate definition of some common English word, and he would criticise mercilessly any inaccuracy that disfigured the definition. The commoner the word, the more difficult the boy found it to define with complete assurance. It is plain that the later clarity of thought, the easy sequence of logical reflections, the power of instantaneous penetration to the heart of a difficult problem, were largely due to the father's training.

Robson and Smith went together to Birkenhead School, while Canon Sloman was headmaster. Sloman, cultivated, scholarly, and successful, had abandoned the Mastership of the King's Scholars at Westminster in favour of the Headmastership of Birkenhead School. Sloman had a sincere belief in F. E.'s capabilities and character. He founded a school debating society over which he used to preside, and he records the deep impression which F. E.'s speeches at this gathering produced upon him. But while praising Smith's precocious abundance of thought, he noted that he was the owner of a fluent and undisciplined style which poured itself forth in rushing cataracts of words. Others criticised this facility of speech as one of the most dangerous prerogatives of superficiality, but Sloman wisely countered this criticism by saying: "You can always prune down the exuberant—what you can't do is to give life to the lifeless." The speeches of most schoolboys are lifeless and halting. One of the few really disastrous reactions of the English educational system is that young men are trained to be ashamed of displaying the nakedness of an emotion, and to be tied in the expression of their opinions by the tradition of a rigid formalism. There is always hope for a young speaker whose fault is exuberance.

He was, besides, a thoughtful and original essayist, and an amateur actor of remarkable promise. Sloman had edited the plays of Plautus and Terence, and F. E. was trained by him to take part in the performance of these plays. He was far the best actor in the school. He lent himself readily to the charades which were performed in Robson's home, where he was a frequent visitor. Robson's father, the Canon, had a great belief in F. E., and persuaded him to coach his younger sons.

Here it may be observed that F. E. published his first book in 1890, a translation in dramatised form of Plautus' *Mostellaria*, for the undergraduates of Liverpool University to act. It was written jointly with Mr. L. D. Barnett, now Keeper of Oriental Printed Books and Manuscripts at the British Museum, and called "The Haunted House".

To his school work F. E. brought the gift of the rapid assimilation of miscellaneous knowledge, which led his contemporaries to believe that he excelled merely by brilliance, and that he did little work. But this was not true: in his school days at any rate he worked hard, and conscientiously; he derived from the stimulating influence of Sloman a genuine interest in the romance of the dead languages and the vanished glories of Greece and Rome. But he was not anchored to the classics by that steady passion for learning and research which underlies great scholarship. Ambition and the excitement produced by the competitive life were the spurs to the efforts.

He was not a brilliant athlete at school, for he was somewhat clumsy on his feet; but he was a heavy and uncereemonious forward in the Rugby XV of which he was captain. He also loved to sail small boats on the Mersey, and was a prodigious walker and swimmer.

He was not universally popular; the bitter tongue and precocious gifts of expression and repartee were as marked at Birkenhead School as at Oxford. This was remarkable, for most schoolboys are completely deficient in these qualities. It was these powers that first riveted the watchful eye of Canon Sloman. Once Smith went into a crowded auction room in Liverpool; the auctioneer resented the presence of a young schoolboy, and resented still more the animated conversation which he was having with his friend. At last he broke into objection.

"Well, young man, we can't all talk at once. If you want to talk, tell us what it's all about."

The words were scarcely out of his mouth before F. E. replied :

"Well, I scarcely like to tell you, but the fact is, my friend and I were wondering which of the two were the uglier, you or your man. I stuck up for you."

But then as afterwards impertinence shrouded genuine power of thought and depth of character. He was utterly loyal as a friend. He was completely dependable in his loyalty both to persons and institutions, a loyalty which found its deepest inspiration in a great love for England. Perhaps these convictions led him even as a boy into Conservative sympathies : as a boy he allied himself to the principles of the Conservative Party simply because that party stood to him for the unity and solidarity of England. But this nascent Toryism did not preclude independent thought. Robson was inclined towards Liberalism, Smith was a staunch Conservative ; yet he was a self-avowed advocate of the disestablishment of the Welsh Church. Mr. Robson concludes :

"I have always looked back on my friendship with him in the days of his boyhood as one of the privileges for which I have to be thankful all my life. I saw but little of him in after years, but from time to time we wrote to each other, and when he was Lord Chancellor he sent me to Hemel Hempstead. I do not think he could fail in any kind of loyalty, he was the most stalwart of friends."

The last visit that he paid to his old school was when he, his son, and the late Ellis Ashmead-Bartlett, the War Correspondent, were speaking at a post-war election in the Walton Division of Liverpool. Next day the three visited Birkenhead School. The occasion upon which they chanced was the presentation by a venerable and distinguished old member of his portrait. The presentation was preceded by a long address, half-way through which the cricket eleven were given leave to go and change in preparation for a match. Ashmead-Bartlett said in a hoarse whisper : "I wish to God I was in the cricket eleven." The old gentleman wound up his speech by producing some of his own school reports and reading them out to the boys. F. E., who rose to speak after him, produced a piece of paper from his pocket and read the following spurious report of himself which he claimed to have brought with him for the purpose.

"*Classics*, admirable. *French* : a Parisian accent and a sound



F. H. SMITH, AGED 16

grammatical knowledge of the tongue. *Divinity*: easily the best in the school. *General Character*: by universal admission the best moral influence that Birkenhead School has ever known."

To the boy who, when he had left school, glanced at his prospects—one fact was clear. Life was an adventure: it was also a lonely adventure, in which he would be dogged by poverty. F. E. Smith, who in later years described himself at the age of seventeen as "a youth of incredible intellectual arrogance", was violently ambitious of success: he was also circumspect and even calculating. He saw that the richest prizes lay open to talent and industry. He was assured of his own powers, although more shaken than he would have admitted by the collapse of his *ballon d'essai* at Harrow. He was prepared to climb. It would be a solitary and laborious ascent. His father had died at forty-three, when F. E. Smith had been sixteen, leaving the widow in embarrassed circumstances, and with four children to educate. F. E. Smith desired to continue his education: not for him the soulless routine of a Birkenhead business house; his eyes turned swiftly to Oxford, partly because he was powerfully attracted by the glamour of its antiquity, partly because he saw it as the spring-board for a career. He could only enter the University by a scholarship. The influence of Sloman had welded him into a capable, if not a particularly exact classical scholar. An uncle, Mr. E. P. Smith, gave him generous assistance, which was made conditional on his winning an open scholarship. He then entered for a scholarship, which he won, at University College, Liverpool. When he had only his Final to pass, his friend Mr. J. Thompson, who afterwards became his brother-in-law, and who was a scholar of Wadham College, persuaded him to go up to Oxford and sit for the scholarship examination at Wadham. He was to have competed at Balliol, but was prevented by an attack of influenza. The Balliol examination was immediately followed by those at Wadham and Trinity. The examinations took place in December, 1890. F. E. Smith was advised by a friend, with whom he afterwards lost touch, to stay at the Wilberforce Temperance Hotel. He was made fairly comfortable there, although it is not recorded that he ever visited it again. After a dinner necessarily rendered frugal by his means and by the character of his hotel, he wandered out into the moonlit streets of Oxford, saw for the first time the lanes and ancient quadrangles. This first beautiful

glimpse of Oxford was never effaced from his mind. Years later he wrote of it :

“ Trinity College was rather fashionable, Wadham not at all. But I looked at the two colleges on a beautiful moonlight night when the beauty of Oxford was rendered even more exquisite, and possibly purer, by a dazzling mantle of snow. I saw Trinity first, and then I passed along the Broad Street to that grey and perfect façade which has remained unaltered since the enlightened and splendid bounty of Nicholas and Dorothy Wadham dedicated a noble building for the education of students from the West of England. I passed into that quadrangle which has undergone no change save where time has mellowed it, since a divine architect gave expression to his genius in terms of stone ; and advancing through the quadrangle towards the chapel, I turned into the most beautiful garden in Oxford, walked to the old cedar tree which has, alas ! since perished, then turned round, and saw radiant in the moonlight the grey, almost white outlines of the chapel and the long line of ancient gables, which, whether you see them by day or whether you see them by night, make the most enchanting spectacle that Oxford can afford. The haunting beauty of that scene determined my choice in one swift moment. I cared then, I am glad to recall, little for fashion, I cared intensely for beauty. While I entertain the most profound respect for Trinity, I shall all my life rejoice that I chose Wadham.”

During the examination, and when it had only one more day to run, Smith was asked by Warden Thorley whether he would take an exhibition if he failed to win a scholarship. F. E. Smith replied that he could not go to Oxford except as a Scholar. To stay up for that one day meant that he could not keep his term at Liverpool, so he wired to his headmaster and to his mother for advice. The former wired, “ Return save Victoria ”, as the Liverpool degree was then called. His mother consulted Thompson, whose advice was, “ Damn Victoria, stay Oxford”.

After the examination came days of that terrible suspense which is known only to those who await the results of an ordeal in which success will give the first twist to their fortunes. Smith was even uncertain whether in the event of failure he could find the £10 journey money necessary for a second attempt. He lingered on, as he described it, “ anxiously but temperately ”, at his Temperance Hotel, awaiting the result. It was announced that it would be pinned up in the Porter’s Lodge at 11 o’clock on Monday morning. Pangs of exquisite anxiety shot through

him as he watched the old porter coming from Warden Thorley's lodgings with a slip of paper : he moved with maddening slowness, and very deliberately opened a glass case ; after much fumbling he produced four drawing pins, and pinned up a list which informed the excited young man who pressed forward to read it that four Scholars had been elected to Wadham in the following order :

C. B. Fry
A. B. Willimott
W. H. Anstie
F. E. Smith

He rushed to the post office and sent a telegram :

To Smith, Mostyn, Lorne Road,
B'head.

Have got scholarship just out tell uncle Arthur £80
three years.

Fred.

He realised that the gate was open ; and that by his own unaided effort he had opened up the only avenue by which he could extricate himself from the sterile life of a family business in Birkenhead. Now he could enter the lists and splinter lances against the most sophisticated young men in England. He realised that he had snatched an opportunity which might be decisive in winning him future success ; that whatever the future held in store for him, he would be competing on equal terms with those who were to be his rivals and antagonists in after life :

" I knew ", he said, " that they would enjoy no advantage, social or educational, which was denied to me ; the field thereafter was open to competition, and I felt confident that I was able to compete. I did not, of course, fail to realise that I was going to Oxford with very slender and inadequate financial resources. But I was sanguine enough to believe that the first thing was to get there and that somehow or other things would work out for the best afterwards. I had indeed a small income. It proved, even with reasonable economy, quite inadequate to the life which I was called upon to lead, having regard to the social and athletic commitments which soon proved to be necessary."

WADHAM (1891-95)

WHEN F. E. Smith's scholarship unlocked the gate to Oxford, he realised a dual ambition: escape from a life with which his nature was out of harmony, and the entry into an enchanted land. The austere beauty of Oxford, and the aspect of Oxford as a sunny nursery in which talent ripened into maturity in competition with others, a life with its alternation of leisured ease and feverish labour, languid summer afternoons contrasted with sudden anxieties, all this exercised a spell upon him so potent that in after life he chose a house within easy reach of Oxford, and transformed it into the image of an Oxford College. He grew into the closest intimacy with every corner of Oxford: the garden of St. John's still breathing the troubled atmosphere of the Civil Wars, from which Trevelyan drew the emotions upon which he built one of the most majestic passages in English prose, the mediæval library at Merton where is still displayed one of the original writs for ship money, the exquisite façades of Mob Quad, the garden of Wadham, and the ancient gables of Worcester; all these infused into him loyalties which only became strengthened with time.

It was also a circumstance to his advantage that he chose a small college. It made emergence easier and it made possible that loyalty and *esprit de corps*, which in a larger foundation are so often dissipated in disunited interests.

Wadham College in the mid-nineteenth century had been illustrious as the centre from which radiated the light of Positivism through Congreve and Harrison. The century was closing upon a far less distinguished period in its fortunes. Its name was bad: Oxford men would ask a riddle: "Why is the Wadham Boat like Noah's Ark?" and would hope to receive the answer: "Because it moves slowly upon the face of the waters and is filled with all manner of beasts." It was soon again to flash into prominence in the vivid light of the personalities of a new genera-

tion of men, and to enjoy a period of intellectual renaissance during which it dwarfed the academic successes of Balliol and New College.

Wadham became one of the most powerful loyalties of his life. Years later he discovered a picture of that remarkable woman Dorothy Wadham, who founded the College; he hung it in his dining-room at Charlton, and when he died it was bought by Sir John Simon and presented to the College. It shows an arresting face. She is a little pinched old woman with ruffle and pointed hat. The portrait is inlaid in mahogany; age seems to have deadened the face into a troubled austerity, and time to have deflowered it of life. Then a change of light, and it is alive again and instinct with its dead authority; one seems to hear on the thin lips the ring of command, and in the sunken eyes there seems again to glow the warmth of vanished passions.

F. E. Smith, when he first entered the timbered hall at Wadham in October 1891, found himself in remarkable company at the Scholars' table. Looking round at his fellow-scholars he saw C. B. Fry, the handsomest man of his day, cultivated and clever, a classical Scholar, and afterwards to show himself the most brilliant all-round athlete in the history of English sport; Fry, with his beautiful figure, with the broad shoulders, the narrow hips, looking as though he might have stepped from a Grecian frieze, the man to whom even Heads of Colleges bowed in the street. He saw too A. A. Roche, afterwards to become a High Court Judge. Within a year this table was joined by John Simon, a young man with curly hair and blue eyes, from Fettes, who was to win a First Class in Greats, to become President of the Union, to become a fellow of All Souls, and in later life, a famous advocate, a leader of the Liberal Party, Solicitor-General, Attorney-General, Home Secretary, Foreign Secretary, and to decline the Woolsack.

Fry's beautiful appearance at once stirred F. E. Smith into admiration: how did he appear to Fry and the other freshmen at the Scholars' table? Fry recalls his meeting with F. E. Smith: how for the first time and with diffidence he pushed open the oak doors of the Wadham dining-hall, how an old scout led him down the dim and solemn hall, into which the windows shed their struggling light. He was shown to the Scholars' table on the left-hand side below the dais where the dons dined on their

nine-inch eminence, and he sat down next to a dark slim youth called Smith.

"Naturally I looked at him", he said, "just as a hound looks at the first he meets when drafted into a strange pack. He had a long back, and sat like a tall man; a lean, almost hard-bitten face, which but for youth and brown health would have been hollow-cheeked, not, however, a young face; and noticeably two wide-open eyes, full of a deep brown light such as one sees in pools of a moorland peat stream, fringed with very long dark eyelashes: Ouida-esque eyelashes, the fortune of any tall brunette, soft with a caressing upward curve".

When he spoke the eyebrows went up, and there was sometimes a sneer on the lips, and a hint of slumbering truculence. There was a hardness and ruggedness about the face which was soon chiselled away by experience and culture, there was a suggestion in his voice of the North Country accent, but this too was worn smooth within a few months. He appeared to be neither pushing nor retiring, but natural; but the most trivial topic upon which he touched seemed to be invested with a certain significance.

Once arrived in Oxford, F. E. Smith showed himself neither industrious nor thrifty. He began to read Honour Moderations without enthusiasm, under the excellent tuition of Herbert Richards, a Balliol man who died a Fellow of Wadham, and whose beautiful scholarship has found a permanent anchorage in German classical texts. Richards once said to Sir John Simon: "When I was lecturing Smith on Thucydides I first realised his powers of rhetorical improvisation." But like many Oxford men in their first year, F. E. Smith found it undesirable to tie himself down to disciplined work. For a man as capable as he of intensive and sustained work, his inability to settle down to it until circumstances forced him was extraordinary. He used to delegate the task of writing his weekly essay to an understudy, a poor Scottish exhibitioner to whom he paid £5 a term, so that when Smith met his tutor it was uncertain which of the two brought to the task the more open mind. In the end a broken arm was made the excuse for a second class in Honour Moderations. But unlike many undergraduates, Smith was not wasting his time. In fact he was employing it more usefully than if he had been working in the classics, a field of which he had begun to grow weary. He began to lay the foundations of a wide reading, choosing particularly

those writers by whom his own style was liberated and informed. He considered that the lucidity of that style owed much to the ordered simplicity of the Latin sentence, but it was indebted equally to the glittering periods of Macaulay and Gibbon, and the melodious sentences of Lecky and Froude. He read every Waverley Novel in his first year at Oxford and every story of Dumas; he read Stevenson, noting that the *Master of Ballantrae* and *Treasure Island* were the high-water mark of adventurous romance, and the *New Arabian Nights* the height of cynical perfection; and *The Wrong Box* he regarded as a touchstone by which a man's humour might be graded. He was deeply impressed by the untutored genius of the Brontës, and by the powerful verbosity of George Eliot. Fascinated by Thackeray, he placed *Esmond* before *Vanity Fair*.

And so, while he appeared to be idling, he had sent his imagination wandering over the landscapes of the English and French classics; reading quickly and with a vivid fancy he stepped into the pages of his book, stood in the tumbril with Carton, watched the driving snowflakes through the windows of Wuthering Heights, heard Burke's thundering voice indicting Hastings, and galloped with the Three Musketeers: and so, gently and agreeably, the machinery of the prose style was assembled. From the deeply contemplated sentences of the masters he quarried their secrets—the suggested antithesis which never came, the abrupt Saxon word slamming the door on the sonorous Latin, the subtle management of consonants, harshness treading on the heels of softness—all those artifices, which Stevenson plaited into a style which was at once arabesque and sensual.

Although it was no part of his University work, he began to read history. Glancing at the cold distances of Norman and Angevin England, with its pipe rolls, its manorial problems, at the dim helmeted figures of de Montfort and Warwick, the Conqueror and Edward I, he came to Tudor and Stuart England. He studied the Reformation in England, and from the documents of Brewer and the vivid pages of Froude reconstructed the figure of the king—at first in the prime of his beautiful youth, with his gold whistle on the docks at Portsmouth, then in dreadful decay wheeled from room to room, rotten with syphilitic ulcers, sprawling a stricken survivor on the battleground of his own passions. Then he immersed himself in the collapse

of the Tudor despotism and the constitutional struggle that followed it. Probing among the documents, the very bones of history, he acquired the knowledge of the specialist. "Charles I, the Last Phase", was in his mind. He longed to write it, but never found time.

Before venturing into the Union Smith had been cultivating his powers of speech in the Wadham Literary Society, the proceedings of which are still recorded in two bulky minute books. In the amusing reports of the proceedings we are conscious of the interplay of immature but virile minds. Its members formed a remarkable group. The curtain had just descended upon the period in which Acton, Urwick, Bidwell and G. A. Cooke had fought their duels in the Society: each of these men climbed from Oxford into a high position. Bidwell became Bishop of Ontario, G. A. Cooke, Regius Professor of Hebrew, Urwick, Professor of Political Economy at Toronto, Acton, a High Court Judge, a Bencher of the Inner Temple, and an Honorary Fellow of Wadham. There followed a period of stagnation in the annals of the Society, but it was the dark hour before the dawn. We have spoken of Smith's contemporaries, Fry, Simon, Roche and Hirst. Besides these men the proceedings of the Literary Society were now brightened by Cecil Grant, now Head Master of St. George's School, Harpenden; by Henry Giveen, a brilliant success at the Union and a Double First, and afterwards a Bencher of Gray's Inn; by James Wylie, and by Thomas Moir, and by Stenning, at the time of writing Warden of Wadham, and a master of Oriental languages.

Nearly all these young men were strangers to one another before entering Wadham: Smith was the only man who came from Birkenhead School. These semi-serious duels laid the foundation of three of Smith's life-long friendships, and he at once began to play a dominant part in this circle. On Sunday, May 22, 1892, we find the Society meeting in Mr. Hodge's rooms; Mr. Moir read an "interesting and appreciative paper on Thackeray, attributing the very highest praise to Thackeray as a novelist and a philosopher; the life-like vividness of his characters was quite unrivalled; of all his novels, perhaps the most perfect was *Esmond*: Beatrice and Rachel were creations of the noblest genius; comparing Thackeray with Dickens, the essayist remarked that Dickens was sometimes strained and unnatural, and that in his works there were passages of morbid

sentimentality, such as were never found in Thackeray's works. . . . Mr. Smith held that Thackeray did well to avoid social problems, and denied that he was a cynic according to *the true definition of that term.*"

Smith made his first appearance as a guest at the hundredth meeting of the club, "when Mr. Willimott read a paper on the coming general election. Interest in elections he assumed to be general: still, interest should not bias one's judgment. To get at the facts necessary for judgment he had studied the newspapers on both sides, and come to the conclusion that the election was an election between two evils. The evils of the present Conservative ministry were described in a series of epigrams; still, if the ministry were remodelled the Tories would be the lesser evil. In the discussion that followed," proceeded Mr. Roche, who was Secretary, "the ministers were defended by members, and the members were attacked by one of the visitors." As there were only two visitors, Mr. F. E. Smith and Mr. Galloway, we are fairly safe in supposing that the attack was launched by the former.

Passing over Mr. Littlewood's views on "Luxury" and "an interesting and clearly written paper" on Montaigne by Mr. Hone (now Suffragan Bishop of Pontefract), a "learned paper on dress" by Mr. Anstie, and an eloquent and sincere paper by Mr. Simon on Wordsworth, and over Mr. Willimott's doubts on the durability of democracies, we come to Smith's first contribution to the Society—"a cleverish paper entitled 'A Holiday, or Political Morality'." Its style was noticeably different from that usually adopted by the honourable member. "To say what is not," he explained, "is the road to success, and the art of politics is that by which one-third cajoles the other two-thirds."

The President, Willimott, congratulated the essayist on his "delicate irony", and concluded that the honest man should not take part in politics. Mr. Roche thought the keynote of the paper was to be found in its title, "A Holiday". Politics should not be regarded by anybody as the business of life. The essayist in reply criticised all the speakers with smartness and without exception.

F. E. Smith unmasked his full batteries at the meeting when Mr. Willimott read a paper on Burke. Mr. Smith frankly conceded the President's plea of ignorance, and proceeded to remedy it. He indulged in considerable biographical detail—

Burke's relations with his stock-jobbing cousins, his extravagance and his other failings. With regard to Burke's style of oratory the speaker pointed out that Burke carried the theatrical element to excess, but had good excuses for so doing, as he often had unappreciative audiences of *stupid Tory squires*. Mr. Smith also spoke of the orator's kindness to contemporary authors and especially of the pecuniary assistance given to Crabbe.

At a later meeting the critical powers of the Society were unleashed on the works of Kipling. Simon, who read the paper, found his works somewhat wanting in catholicity of sympathy, though his last book showed improvement in this respect. Fry conceded him great capabilities as a verse writer, but thought he was too pertinently blasphemous. Hirst thought his taste often questionable, but his use of metaphor most powerful. Smith found him guilty of a "spurious striving after virility".

F. E. Smith was fond of saying: "I was born a Conservative, it is in my blood," yet his father's politics were at one time far from the rigid Toryism into which they slid in 1877. He had stood for the Tranmere local board as an independent, with his own organisation and resources, and he had been unsuccessful. From 1877 onwards he was definitely associated with the Conservative party, and after being elected chairman of the Cleveland Ward Conservative Committee, frequently appeared on the public platform in Lancashire and Cheshire. But although he had become a staunch Tory he was defiant on one of the tenets of his creed, for he remained all his life an active Wesleyan Methodist, and when he died, was buried at Flaybrick Hill cemetery, the Nonconformist part of the Birkenhead cemetery.

We have seen how the elder Fred Smith delighted in educating his children, and liberalising their minds by collision with his own experienced dialectics. It was natural that politics should enter into these discussions, and that F. E. and Harold eagerly imbibed their father's views. The conventional cluster of legends surrounds F. E.'s political début—how in a powerful fighting speech in 1885 he harangued his friends in the yard of Birkenhead School, and how at sixteen he had already made his debut upon a political platform. Probably his first important speech was that which, as an undergraduate of 22, he made in the Hope Hall, Liverpool, in 1894. The issues have grown cold with time; the passions which animated those bygone

controversies are burned out, yet in this speech, a fighting speech to a partisan audience, there is a vitality and a provocative self-confidence which make it easy to read, and which compelled the *Liverpool Courier* to admit next day in its leading article "that it is no reflection whatever on Mr. Long, Lord Dudley, or Mr. Bigham to say that the sensation of the evening was the extraordinary performance of Mr. F. E. Smith, the undergraduate of Wadham College: he indeed made it plain to all that the Conservative party will not lack in the future new and brilliant exponents". On the day that Lord Birkenhead died the *Liverpool Evening Express* reprinted the original report of his speech of 1894; to-day many of the points at issue are forgotten, but the incisive language and the fluid style remain vivid and moving.

"Alluding to the representation of Liverpool the speaker said it was true that two of the goats of Liberalism still lurked among the sheep of Conservatism. (Laughter.) They relied upon Mr. Bigham at an early date to deal with Mr. Neville—(applause)—but the presence of that disinterested patriot, Mr. T. P. O'Connor—(oh!)—conveyed to them a perpetual reproach. It was their desire, and Mr. McCartney's intention, to relieve that gentleman at an early date of his parliamentary duties. (Laughter and applause.)

"They would set him free to devote all his time to that journalistic literature of which he was so conspicuous a degrader. (Laughter and applause.)

"What was the position of that Radical party? They desired to set class against class with the object of deriving therefrom some, electioneering advantage. Their motto was: attack, and if possible destroy every institution which is attached to your political opponents. Perpetuate and exaggerate every anomaly from which you yourselves may derive a vote that might be a convenient and profitable creed, but it was not the creed of statesmen or of a great political party. (Applause.)

"A measure of all-round reform would receive the thoughtful consideration of the Conservatives, but they would not permit the Government to gerrymander the English constituencies. Their opponents alleged that the House of Lords opposed the people's will in throwing out the Home Rule Bill; but they did not think they would have carried out the people's will if they had carried out the Bill.

"This was the issue, and there was only one way of settling it—by replacing it unclouded, without any side issues, before the people.

"What (*he asked*), would have been the feelings of the people, if the House of Lords had passed the Home Rule Bill? Could they

picture the consternation and indignation of the betrayed people? (Applause.)

"The Unionist party, fortified by the lessons of the past, were marching on the future with hope, confident in the patriotism of the great democracy. They believed that the future of the country was secure in the hands of the people who were able to measure their responsibility by their greatness." (Applause.)

Though still an undergraduate he was speaking as frequently as possible, and local organisations welcomed this fluent young advocate of Toryism with open arms. Next we find him attacking Liberalism at a Birkenhead municipal meeting. His speech stirred the Birkenhead *Advertiser* into saying :

"The oratorical work of the evening was crowned in a general, as well as in a particular sense, by the brilliant torrent of really forensic eloquence poured out by our able young townsman, F. E. Smith, who, fresh from the acquisition of his University Honours, gained at Oxford, riddled with the red-hot shot and shell of apt language and fervid delivery the 'philosophical essays' of the other side, and while arranging a series of interesting propositions on the science of municipal warfare, he did not neglect the more practical work of giving the other side a tremendous 'towelling' on the very substantial basis of solid facts. It will amuse and charm all readers to mark the smashing blows that Mr. Smith delivered at Liberal effrontery, and the admirable manner in which he turned the Liberal arguments against themselves."

He spoke in the North as frequently as possible, and as the following remarkable account of a meeting shows, had already established a reputation. It was written by a Liberal, just after Smith had made his maiden speech in the Commons.

"Some years ago in the corner of a certain parliamentary division in the north of England, a meeting was being held in support of the Conservative candidate. The meeting had been in progress some time. The chairman had offered the usual banalities by way of preliminaries and having introduced the candidate, the latter had risen and manfully striven to gain the ear of his audience. But though his speech was, no doubt, a model of preparation, and though its sentiments evoked constant 'hear, hears!' that wonderful bond of union which the speaker who has any feeling or oratory establishes between himself and his audience, was not effected. The speech hung fire, and presently the candidate, officially the chief protagonist of the occasion, sat down.

"Then a young man rose. Few knew him, and the unknown speaker



WADHAM COLLEGE RUGBY UNION XV, 1893-94

Reading from left to right:

Standing.—G. S. Legard, J. A. Simon, A. A. Roche, C. B. Fry, T. P. Galloway, A. E. Ayre, H. A. Hignett, H. C. Bentley.

Seated.—N. L. Jenkins, R. B. Littlewood, A. L. Bentley, F. E. Smith (Captain), T. E. Moir, W. S. Lee, W. H. Anstie.

is never welcomed at provincial meetings. Even as he stood up there rose that murmur of voices which always follows the sitting down of the 'big man'. But the young man opened his mouth, and the people moved. Then there followed a breathless silence and he had his way with them. He said nothing new, nothing that our excellent candidate had not said—possibly his knowledge was infinitely less than the latter's. But—the people were in his grip. He held them; he fought down their every prejudice, he dazzled them. To the end he carried them with him, and when at last he ceased and sat down the crowd let itself go. It cheered, it howled, it roared itself hoarse. It stamped, it clapped, it waved, and the young man looked down upon it smiling and immovable. A great personal triumph had been won. The name of F. E. Smith, in one part of the country at least, was made."

F. E. Smith was devoted to athletics and exercise, particularly Rugby football. He had been captain of Birkenhead School first fifteen, and was afterwards captain of a famous Wadham fifteen, and his merits as a forward were undeniable. But though he was a powerful, he was not a suave or an urbane forward, and it was perhaps this deficiency which cost him his Blue rather than the prejudice of the University authorities, which he so freely abused. He became a first-rate Rugby footballer. To-day he would certainly have been given his Blue, but in his own day there was a fashion in heavy-looking forwards, who were called "Beefers," and no one who had not a bull neck and lumpy shoulders, or who came from a school other than Fettes or Loretto, stood a serious chance of a Blue as a forward, unless he was an exceptional genius. F. E. Smith was wiry and strong and brave. His best feature was getting the ball on the line-out, and he was a deadly tackler, but he did not look his weight, which was a good thirteen stone. He was tried several times for the University, and played regularly for the College, and in his third year became captain of one of the best College sides Oxford has ever seen. It contained but one Blue, Littlewood, a "beefier," afterwards Canon Littlewood, and he was by no means the best player in the side. Simon was a member; Roche was a member; Hirst, who describes himself as having been a skilful but timid footballer, never quite forgave Smith for overlooking his claims. This team defeated every other side in Oxford, and won the inter-College Competition: it is quite probable that it would have defeated the University

side that year; its success was the more remarkable by the fact that Wadham College at the time consisted of only eighty members. Fry, who captained Oxford and England at Association, and who could run the hundred yards in ten seconds, was shown the game by Smith and placed on the wing of the three-quarter line, where his great pace supplemented a certain ignorance of technique. The greatest triumph of this Wadham side and of its captain was the defeat on Fenners Ground of Caius College, Cambridge. It was a specially arranged match between the best College sides of the year of both Universities. Caius produced an extraordinary team. They had four Blues and two Internationals, Tucker and Mitchell, and Smith's apotheosis as a Rugby footballer came when he scored the winning try for Wadham in front of a large and excited crowd, playing in the unaccustomed position of wing three-quarter. It was a great occasion. The Wadham side travelled back after dinner. They began to break up the railway carriage; Smith, recalling the incident many years later at a dinner given by the Oxford Athletic Club, said that he tried to reason with them, but seeing that it was futile he let them do their worst. Concluding his story he remarked sadly: "that journey cost me the most miserable twenty pounds that I have ever been compelled to borrow".

In the long vacation during his undergraduate days he was speaking in political meetings in Lancashire, and one day fell heavily on the cinder-covered platform of a railway station, when stepping from a train in motion. He cut himself deeply in his left elbow and arm. The wound became poisoned and the infection spread to the bone. His arm became useless and caused him the greatest agony. He went to see several London specialists: they all advised immediate amputation. Smith was in a terrible position. He felt that he must have further opinions before taking such a desperate course: but he could ill afford them: he had no man to whom to turn for advice and assistance. Then he recalled a famous surgeon in the North of England, and a close friend of his father, Mr. Mitchell Banks. He went to Birkenhead to consult him. His appointment was in the evening, and he spent a miserable afternoon at the theatre. Mitchell Banks took the view that the only hope of saving the arm lay in scraping it to the bone to cleanse it from the poison. Thus was amputation averted, but the arm was

terribly painful and quite useless. Mr. Mitchell Banks refused to consider charging a fee for what he had done. Smith returned for the October term quite ill, and crippled, but fully intending to play Rugby football. With an injury which would have kept most men in bed for weeks, he had made a stiffened leather sheath with a joint at the elbow, packed with cotton wool, and played with all his usual dash and courage. Fry describes this as the "most remarkable continued effort of fortitude" that he had come across in his whole experience of sport.

Wadham College also reached the final of the Association football cup under the captaincy of the great Fry; F. E. Smith played a virile if unscientific share as centre-half. The efforts of Wadham at Association were even more laudable than at Rugby. Smith knew nothing of the game when he went up to Oxford, and there were exactly fourteen men in Wadham who could be said to play the game, six of them only by extreme courtesy. Yet, in his second year, Fry managed to produce out of this unpromising material a side which reached the final of the inter-College Cup Competition, and only lost by one goal to Magdalen after extra time had been played. The Magdalen side, moreover, was full of Blues. Fry schooled Smith in Association. He told him that he could not be worse than some of the eleven, and would, in any case, be useful to argue with the referee and draft protests. He became, in fact, a most useful half-back with "a capacity for work that made up for his Rugby man's disinclination to treat a ball as spherical and susceptible of accurate treatment". He was a mainstay of the half-back line, and the attacks of opposing forwards splintered against him in vain. Smith not only played in this distinguished little team, but he had a great deal to do with inciting and inspiring its rather amateur members into match-winning efforts.

Besides Rugby football Smith was fond of long-distance running, and again just missed his Blue. He was a dogged and powerful runner of great stamina, but wanting in that power of dash and finish which makes the great three-miler. He came in third in the University trials, finishing not far behind Lord Alfred Douglas.

That he long retained his powers as an athlete was shown in 1920, during his Lord Chancellorship, when he was forty-eight years of age. He was dining in the Senior Common Room of Christ Church, Oxford, in a company which included

W. R. Milligan, the famous Oxford runner. The conversation after dinner turned on the question of endurance in sport : Lord Birkenhead remarked that he was still active, and went on to wager fifteen pounds to five that he would run the circuit of Tom Quad four times before Milligan could run eight. Milligan's host and another don accepted the bet. The Lord Chancellor and Milligan decided to run as they stood, in dinner jackets and evening shoes : Lord Birkenhead was further embarrassed by a large red carnation. The whole senior common room turned out to watch the race.

The Lord Chancellor called for silence and said that before the race started there was one further condition that he must make. There were shouts of protest : "No, no ! The bets are made !"

"The condition", said the Lord Chancellor, "is that before the race I have one more whisky and soda !"

The Lord Chancellor was seen in earnest conversation with one of his supporters, who agreed to act as his pace-maker. The race started at 10.30. Milligan at once sprang ahead, and gallantly tried to diminish the extra laps, but just as he was finishing the sixth lap he was told to stop, as the elder guest had completed his fourth, and had thus won.

A famous occasion, in which Smith played a prominent if discreditable rôle, was the coming of age of the present Duke of Marlborough at Blenheim. Many invitations had been issued to the Duke's friends at Oxford. The occasion was of the greatest local importance ; the noblest country house in England, and those gardens which the genius of Capability Brown created for the Churchill family, had been prepared for weeks beforehand. Suddenly the Dean of Christ Church took the unwise step of cancelling the leave of all Christ Church men on the night of the ball. This step met with a swift retribution. Next morning the Dean, glancing out of the deanery windows, was horrified to see that the whole façade of Tom Quad had been painted a vivid red. Here and there were enormous paintings of himself, with comments upon his appearance written beneath ; in the evening at 9.10, the hour when, every night since Cardinal College had been founded by Wolsey, the curfew had boomed forth the number of scholars upon the original foundation—the bell was silent. Many of the more distinguished undergraduates were sent down, including Lord Beauchamp.

F. E. Smith was more fortunate : no embargo had been laid upon Wadham. He went to Blenheim and enjoyed the festivities. At four o'clock in the morning Smith felt that he had had the best of the entertainment, and prepared to go home. He was embarrassed by the company of two extremely drunken undergraduates whom he had met for the first time that evening, and who refused to leave him, pleading that they had fallen into bad company, and wished to go home. Smith had driven to Blenheim in a hansom cab ; he found that the driver had yielded to the spirit of the evening, and become dead drunk ; the horse had been taken from the shafts by two undergraduates who had ridden it home. Smith allowed his mind to play on the situation, and a solution came to him. The Duke of Marlborough was one of the finest light-weight horsemen of the day : his stables were filled with the famous grey hunters which will live for ever on the canvas of Munnings. The Duke rode only these grey blood horses, and England was scoured to provide them for him. Not one of them had cost less than 500 guineas, most of them a higher sum. Smith broached his scheme to his two colleagues : it was to take one of these creatures from the stables, harness it to the hansom cab, and drive it back to Oxford. Calmer reflection would undoubtedly have told him that to put into a cab a horse which had never before been between the shafts, and to drive it six miles on a dark night, was inviting an accident : it would also have told him that there were many straighter roads to the Duke's heart.

The horse was led out of the loose-box and after violent plungings was harnessed to the hansom. F. E. Smith climbed up into the driving seat : his two followers clambered into the body of the cab ; it was driven slowly through the great arch, through the sleeping streets of Woodstock and out into the open road.

It was soon clear that there was a collision of views between the driver and the horse. This in itself might not have produced a disaster, had it not been for the extraordinary behaviour of the two passengers, both of whom wished to reach home as soon as possible ; and both of whom thought that Smith was not getting the full benefit out of the speed of the horse. They began to prod the horse in the quarters with umbrellas, urging it to greater efforts. In ten seconds the hansom was lying on

its side in the ditch : Smith was thrown over the hedge, where he lay unhurt in a grass field. His two colleagues kept silence in the bowels of the hansom cab. Smith felt that his first responsibility was due to the horse rather than to his two colleagues ; he climbed through the hedge, cut the traces, leaving the overturned cab where it lay—glanced through the window and satisfied himself that both men were sleeping, mounted the horse, and jogged painfully into Oxford, where he left it in a livery stable. Next morning the horse was sent surreptitiously back to Blenheim—accompanied by the strongest injunctions of silence ; and the Duke had to wait for twenty years before hearing of the escapade.

THE OXFORD UNION (1891-95)

ONE of the many reasons for Smith's inattention to regular work was that he had been eagerly feeding a growing political ambition in the Union Society, and had been sharpening his powers of speech in brilliant company. Besides Smith's remarkable Wadham contemporaries, other personalities adorned University politics : Lord Balcarras, a President of the Union Society ; Lord Hugh Cecil, and Mr. Hilaire Belloc.

The Oxford Union is one of the largest and the most remarkable debating societies in the world. Eight hundred people can be accommodated in its debating hall on an important occasion. It is a strange, elusive and difficult audience, an audience which will often rock with hysterical laughter over a gimcrack epigram, but which has yet seldom failed to recognise and reward genuine merit. It is an audience sometimes cruel, sometimes irritating, but always fastidious and always critical. To the maiden speaker it is almost as powerful a deterrent as the House of Commons. The Oxford Union has frequently been described by its chroniclers as a nursery of statesmen. This is more than a mere phrase : it is a forcing house of political talent, and its records and history show how many of the greatest figures in Church and State received in it their first experience of a quasi-parliamentary atmosphere, and their first knowledge of the hard-learned art of an extemporary debating reply.

To the stranger entering the Union buildings in vacation, there would appear to linger over them an atmosphere of decayed and melancholy Victorianism. The debating hall is locked and silent ; the rooms are deserted and cold. But on a Thursday evening of a great debate, in term time, the buildings shed their gloom, and the Union becomes a place of enchantment and romance : the packed benches and galleries, the pale faces of some of the speakers, the atmosphere of expectancy, of buried ambitions and thrilling successes, these offer the nearest parallel

to the excitement of the House of Commons. F. E. Smith was always conscious of this charm; he was also conscious that he was speaking within walls which had listened to the masters of eloquence both in the dawn and twilight of their lives.

The growth of this remarkable Society discloses a struggling infancy in 1823, when a body of men, eager to provide a focus in which their interests might receive free discussion, and eager to stabilise their body and give it permanence, formed the first society of 1823, the United Debating Society, which struggled for existence against the sparseness of support and the encroachments of authority. Then the Oxford United Debating Society fell ill and died, and was buried, and the Oxford Union Society rose upon its ruins. It was to this young Society that the Cambridge speakers came with real missionary zeal to vindicate the genius of Shelley, and by their eloquence to raise him above comparison with that inferior orb Lord Byron. Hallam, Sunderland and Milnes travelled by the stage coach through lanes deep with snow, to be met by William Gladstone with a circle of Etonian supporters. The exhausted guests were given cordials, and the debate was held, and all the barriers of defence reared by the Oxonians for Byron were swept away by the compelling arguments of the visitors.

The brief period of Manning's presidency followed, and the trend of debate tended to slide into the discussion of abstract problems, while the Society imbibed a new life from his copious vocabulary, striking personality and arresting presence, a life which was to attain its full maturity under the spell of William Ewart Gladstone. He became Secretary of the Society on May 13, 1830, while the country was trembling on the eve of parliamentary reform. The Presidency of this illustrious man wrought an entirely new feeling in the Union, and he infused into the debates something of his own earnest religious convictions. When the groping movement for Parliamentary reform moulded by the genius of Fox and the patience of Grey had led England into the convulsive prelude to the Reform Bill; in 1831, when contemporary opinion recoiled from Parliamentary reform as from a subversion of the English Constitution; when a handful of patricians dominating an unrepresentative Chamber saw, as they thought, with terror, the approach of a wave of democracy, the prevalent fear was closely mirrored in the reactionary con-

clusions of the Union Society. Gladstone riddled with scorn the Duke of Wellington's ministry, and bitterly attacked Lord Brougham, and, when the reform crisis gathered to a head, fiercely challenged it point by point, so that we wonder that such noble talent should have been dissipated in so retrogressive a cause, and that so powerful a mind could not have seen more clearly into the future of democracy. The tense excitement which pervaded the debates in the Commons at this period, and which inspired the Bristol riots, crept into the Union debates. Gladstone before an excited house raked Grey's ministry with his broadsides: he spoke of the Bill as "a measure which threatens not only to change the form of our government, but ultimately to break up the very foundations of social order".

His contemporaries failed to realise that Gladstone's eloquence stalked roughly over the great awakening ideas of the mid-nineteenth century, but they saw clearly that a giant had arisen amongst them, and that at no very distant date he, like Bolingbroke, was destined to "rise amidst the breathless anticipation of senates, and sit down amid reiterated bursts of applause".

In view of the traditions of its past, and the formality of its proceedings, a maiden speech at the Oxford Union is a great ordeal. F. E. Smith, who successfully faced a far graver ordeal in 1906 without delay, allowed a whole term to elapse before he addressed the Union Society. The aim of the Union speaker is to be placed "on the paper", to have his name printed on the Bills which are circulated to every college in Oxford. Generally there are four or five speakers whose names are placed on the paper: after they have spoken the debate is thrown open to the House, and he who desires to speak passes a note to the President. These later speakers are closely rationed in time. The ordinary unknown freshman coming from a small college, unassisted by influence from above, who is ambitious of success in debate, must first distinguish himself in the humbler walk of speech. He may be obliged to linger on in the Union Hall when all have departed except those tenacious few who are waiting to make their own short speeches, and he may be obliged to wait until all but half a dozen members are being surveyed without interest by a thirsty President. Then he may be invited to speak; he will be limited to three minutes, and he will realise that the only bond which unites himself and his audience is a mutual desire to bore one another.

F. E. Smith managed, characteristically, to avoid this necessity. He had already made an impression on the Wadham Debating Society, and an ex-Secretary of the Union, C. H. Eliot, who had heard him speak there, had strongly urged the President of the Union, Mr. Magee of Merton, to give F. E. Smith an opportunity of making his maiden speech "on the paper", and to invite him to oppose a motion of Lord Balcarras "That this House approves of local option". Sir Wilfrid Lawson, then at the height of his fame as the most witty speaker to whom the Prohibitionist movement had given birth, and as its most prominent advocate in the House of Commons, was invited to appear as the guest of the evening and to make the principal speech in favour of local option. The House was therefore far fuller than it would have been for an ordinary debate. The benches and the galleries were filled with eight hundred undergraduates and guests. The guest of the evening was a practiced and famous parliamentary speaker; he was preceded by Lord Balcarras, and opposed by an unknown freshman, aged nineteen, named Smith. The occasion was a critical one. Except for his successes in the more paltry arena of college debate, in an atmosphere almost wholly given over to lightness, F. E. Smith had never really convinced himself or anyone else that he possessed considerable powers of serious speech.

He had always desired the prerogatives of the orator: that glorious power which can raise an audience from the stale air of ordinary life, dominate it, play upon its reactions, and command its moods. He knew well that the spoken word must always dominate political thought, and years later he wrote of it in an Eton periodical:

"If you are ambitious of a public career the gift and habit of public speech are indispensable. If you wish to enter the Church, this golden gift may land your gaitered legs under the mahogany of Lambeth Palace. If you are legally minded the power of speech may lead you to the Woolsack. And if you go into the City of London you may acquire the gift with which the silver-tongued Bottomley charmed so many unsympathetic shareholders. . . . In time you will learn to make speeches easily and gracefully: and then you will have travelled far along the road of a great accomplishment."

His plan of attack differed from that which he adopted in 1906: on this exciting night at the Union, March 17, 1892,

he decided to open his speech with serious persuasions and to conclude it with impertinences. The audience must be stimulated, but its disfavour not be invited by jests which might not succeed: Smith, who spoke directly before Sir Wilfrid Lawson, commenced with a serious debating argument, but he did not forget that Lawson when he succeeded to his fathers' Baronetcy and estate in 1867 had immediately opened the cellars of his Carlisle mansion, and destroyed the stocks of beautiful wine.

As the opposer of this motion, he said that he would at any time rejoice at local option being negatived, but he would doubly rejoice if it was negatived that evening, because it would enjoy the support of their illustrious visitor. The local optionists always began by assuming that drink was the curse of the land: he did not know why they did so, unless it was to make people approach the subject in a properly serious state of mind, for he was far from denying the damage done by alcohol, and agreed with that portion of the proposer's speech. But he considered local option an unjust and unwise method of extinguishing drunkenness. It lay with the proposers of local option to show: first, that the existing system was unsatisfactory; second, that local option would remove that condition; third, that their measure was neither unjust nor immoral: he contended that the present system was satisfactory, but had had insufficient time to work, since it was discovered that public-houses were in excess of the demand. What was local option? Was the veto to lie with the rate-payers, the representatives of the rate-payers, or the County Councils? In the first case by means of statistics he showed that it would not do, as the rate-payers were few in comparison with the population. From this, it was also obvious that the second would not be satisfactory; it would be unsatisfactory in the third, for then every county business except drink would be swamped. Was it justice that if A was moderate, but the sight of a public-house proved fatal to B, then local option would not let A have alcohol because B abused it? Mr. Morley, when he brought forward his argument about the landlord and his tenant, forgot that in the one case he was dealing with his own property, while in the other he was not. He would not say much about compensation, for he did not believe that their visitor was averse from it. In 1881 Mr. Gladstone said that unlicensed victuallers

had the same claim as any other honest trader, but by 1890 he had greatly modified his views. If there was no legal right to compensation, that there was a moral one was indisputable, considering the cost the publicans were put to in fitting up their houses, etc. It was generally considered that no one should do evil that good might come, but in this case they wanted to do evil that evil might come: he did not believe that the clubs would be fettered at all, and as to America, he considered the facts of the proposer incorrect, although no doubt the proposer believed them to be true. He then passed to Canada, to show that in nearly every case where Prohibition laws had been passed, they had either been repealed, or petitions for their repeal were waiting—and in the United States, in Maine, where local option had been tried for thirty years, the police reported that intoxication actually increased. If the sale of alcohol were curtailed, worse liquor would be sold. In Wales the Sunday Closing Act had done little to crush drunkenness; in fact, in Cardiff and elsewhere the official reports showed that it had enormously increased. Now if one day a week Prohibition assisted such harm, what would every day do? He considered that it was much better that liquor should be got with the sanction of the law than without.

Then suddenly and with a carefully rehearsed change of mood and voice Smith leaned over Sir Wilfrid Lawson, who was placidly making notes for reply from the Committee benches, and in a passionate voice, he branded Lawson's outrage at Carlisle.

"It is a convention in this house, he said, and a right convention, that honourable visitors should be treated with respect, and their records and conclusions be challenged only by the courteous denials of debate. But to-night I must deviate from this custom. The honourable gentleman inherited a noble cellar, in which the piety of his ancestors had laid to rest delicate clarets, sustaining ports, stimulating champagnes, and warm and ancient brandies. What did the honourable gentleman do with his cellar? He destroyed that priceless heritage of the ages, in which was stored the bottled sunshine of the south—he destroyed it under circumstances of such barbarity that even the thirstiest throat in Carlisle was denied participation! I tell you, sir, that if in years to come the honourable gentleman comes to me, when I am nestling in Abraham's bosom, and asks me for a drop of water, I shall say to him: 'No, not a drop! You dissipated greater liquor!'"

The reflections conjured up by this absurd picture of Smith, who was only 19 years old, dark and good-looking, made the benches rock: there was a drawn-out roar of amusement which told Smith that he had the ear of the house, and had obtained a complete temporary dominion over it, just as the shout of laughter, which fourteen years later greeted his gibe at the member for East Toxteth, told him that he had captured the even more sensitive ear of the House of Commons. He waited nonchalantly for the tumult to die down. Then he finished his speech. The effect of the speech is reflected in the undergraduate Press. The *Isis* reporter said: "The speech of the evening, with all respect to our guest, was the amazingly vivacious and brilliant performance of F. E. Smith, the Wadham freshman", and the *Oxford Magazine* referred to the maiden speech as one of conciseness, power and brilliancy.

This period in the history of the Union was one of remarkable distinction. The scholarly historian of the Union, Mr. Morrah, wrote that:

"the perfecting of the material structure raised the Society to a suitable plane for the rhetorical triumphs of John Simon and F. E. Smith . . . the names of Frederick Edwin Smith and of Hilaire Belloc wrought an entirely new feeling in the Union, and before very long they were reinforced by John Allsebrook Simon: from these three men the Union imbibed fresh strength, which lasted for many years. . . ."

and again:

"On many occasions did F. E. Smith play with the weaknesses of his opponents, and with all impracticable and visionary parties. Here is an expression which has survived from one of his speeches: 'If the Turk treated with disdain the menaces of Lord Salisbury with all the powers at his back, who would be intimidated by the belligerent fury of the Peace Society?' But it was not only as a political critic with an inexhaustible power of pungent expression that speeches like this were made: F. E. Smith was a speaker who could unbend, and take his full share both in the administrative work of the Union and in the lighter business which brought men together week by week to exercise themselves in the art of repartee."

F. E. Smith quickly rose to be leader of the Conservative section of the Union: Hilaire Belloc dominated the Liberals. Smith became Junior Treasurer of the Society in the autumn of 1893, and President in 1894. He had many duels with Belloc, and

opposed him on all his great nights. Belloc's speeches were reinforced by an immense erudition, a real streak of creative genius, and by a profound conviction. F. E. Smith appreciated his opponent's qualities, and wrote of him in later years :

" Mr. Belloc was undoubtedly a great orator. At Oxford he spoke out of the sincerity of his heart in noble English, and out of a fund of natural genius : at the Union he was an immense, an unparalleled success. I can bear testimony to this, because I opposed Mr. Belloc on all his great occasions."

But many a political reputation has perished on the road from Oxford to London, and the jewelled phrases, which Belloc shed triumphantly in the Union, crumbled into dust on the floor of the House of Commons. On the whole, although the Liberals were led by Belloc and later by Simon, the Conservative interest was the interest of the majority. Smith made his second appearance "on the paper" on May 12, 1892, when with Mr. Galbraith in the chair he moved that this House disapproves of all "canvassing in connection with political elections". He took the view that the proper definition of canvassing was the house-to-house solicitation of votes, and that electioneering had undergone a species of evolution during the last hundred and fifty years. He described the proceedings at an election a century ago, and pointed out how the Reform Bill, which involved the abolition of the pocket boroughs, had met with just the same opposition as the proposal to do away with canvassing. One of the greatest counts against it was that the ballot and canvassing existing together were an anomaly, for the former was instituted to reduce the possibility of influence on the voter, while the latter tended to increase it. He believed that canvassing undermined political morality. He himself went once to ask a man for his vote in the Conservative interest, and as he thought succeeded in gaining the man to his side. Afterwards he found that the man had treated the Liberal canvasser just the same, so the two went to visit him together : but the voter was unabashed and said that he always treated canvassers like that : it pleased them, and did no harm. The voter resented the importunity of the canvasser and did not forcibly eject him merely from motives of politeness. He himself, on entering a house, once met with the monosyllabic, "Go!" and he went. Smith rounded off his arguments and carried the motion by the narrow majority of four.



Hills & Saunders, Oxford

OXFORD UNION SOCIETY STANDING COMMITTEE, 1892

Reading from left to right :

Standing.—E. G. Hemmerde, Earl Beauchamp, W. Gill, P. J. Macdonnell, and J. H. Harley.

Middle row.—Lord Balcarras, H. Belloc, F. E. Smith (President), the Rev. T. H. Grose, W. F. K. Stride, and J. S. Phillimore. *In front*.—J. H. Harris-Burland and F. R. C. Bruce.

We next find him moving on February 9, 1893, "that at the present juncture, the advent of a dictator would be a blessing to the French people".

Lord Curzon at the centenary dinner of the Society recalled Smith's youthful support of autocracy, and observed pleasantly :

"In the course of 1893 a young undergraduate named F. E. Smith moved with entrancing eloquence and obtained the assent of the Union to the proposition: 'that the advent of a dictator would be a blessing to the French people'. But why confine the beatitude to the French? Why not have an exchange of nationality, and substitute the British for the French? I am quite certain that if the noble and learned Lord were to come down here and with that slight change of adjective were to move the same resolution, he would, without difficulty, carry it into effect. And if in the course of his demonstration he indicated that in the person of the High Steward of this University, in an ex-President of the Union Society, and in an ex-Lord Chancellor, the man of destiny was to be found, nobody would be in the least surprised."

The next important debate in which F. E. Smith spoke was the celebrated occasion when, with Lord Beauchamp in the chair, Mr. Belloc submitted to a packed house the motion "that this house would approve of any measure which would give undergraduates a share in the government of this University". This was a subject on which Mr. Belloc had lavished much thought, and on which he allowed all his sincere and warm eloquence to play. In his peroration he drew a noble picture, like Aristotle's ideal state, of the University "like some lofty and well-proportioned cathedral, in which the representation of undergraduates would be a conduit and a drain for the buoyancy of youth"; a natural lisp converted the word "drain" into "dwain".

F. E. Smith, opposing the motion, adopted a style terse, matter-of-fact and offensive, so as better to throw into relief the extravagance of his opponent's periods. He described the motion as one of the most foolish that he had ever heard brought forward. The undergraduates were already a self-governing body; they governed themselves by athletic clubs, by intellectual, political and historical societies, and finally by their Press—these were the organisations which met various tastes, and they were the methods, too, by which they governed themselves. The thing that struck him most forcibly was that all the grievances to which undergraduates were liable were by the hon. mover left

quite unnoticed. Had the honourable member from Balliol brought in a measure that would give him a share in the government of his college he would have had no more ardent supporter than himself, but he submitted that the methods suggested by the hon. mover for the better government of the University were both futile and ineffectual. If the honourable member desired to extend his efforts in the direction of reform, he would advise him to turn his attention to Paris rather than Oxford, for he strenuously opposed any imitation in Oxford of the methods of government employed at Glasgow and Edinburgh. He concluded with a mock peroration in which he burlesqued Belloc's own: "When I contemplate the scheme of the honourable gentleman from Balliol, I see it as a high, vast, lofty, well proportioned drain!" He walked back to the committee benches amid loud laughter, sat down, and whispered to his neighbour, "I think I've pricked the Belloc bubble at last!" Belloc lost the motion by 44 votes.

Sir John Simon records that F. E. Smith's speeches at this period were carefully prepared, and, living as a close neighbour of Smith in Wadham, he used to hear him pacing his room in elaborate rehearsal. It was during this period that he was learning and practising those artifices of speech which were to become indispensable weapons; the baited trap into which opponents allowed themselves to fall, the innocent question and the devastating reply, what Mr. Garvin described in a brilliant obituary phrase as that "Sheridan-esque quality of concocted impromptu".

F. E. Smith in after years said that his powers of speech had been little moulded by time, and that as a boy of twenty-three he had at his command the same studied invective, the same powers of extemporaneous speech as he had in his prime. We are forced to agree with this judgment when we reach the year 1898, when Smith as a don of Merton in the last important speech of his residential period in Oxford moved the adjournment on May 19, 1898, in view of Mr. Gladstone's death. Before this speech, which is given as it was delivered, we are moving in an atmosphere of forgotten causes and exhausted strifes, in an atmosphere where the abruptness of the reporter chills the brilliancy of the speaker; but the speeches delivered by F. E. Smith and John Simon on the occasion of Gladstone's death are so fresh, and so individually

characteristic of their authors in maturity, that they might have been delivered yesterday to deplore the passing of a colleague. Both Simon and Smith had been prepared to offer to a frivolous audience in *Eights Week* the food which tradition and taste dictated. The news, long expected, of Gladstone's death had been received on the same day. The noblest candle which had ever lighted bygone debates in the Society had been extinguished ; frivolity had to give way to funereal speeches, jests to elegies. Smith, quickly discarding his epigrams, rose to move the adjournment of the House in an impromptu speech which he could not have improved upon at any period of his life. He was not yet 26.

"I rise to move, he said with the brevity proper to such an occasion, the following motion : ' That in view of Mr. Gladstone's death, this House do adjourn.'

"When I look round, Sir, at this House—at those benches crowded on every side, at the gallery full of our friends and guests—I am conscious of one feeling, and one only, a feeling of profound satisfaction that chance has put it in our power to-night to make a sacrifice—not the small sacrifice of our own, but the great sacrifice of our friends' pleasure—to prove the sincerity of our sorrow for Mr. Gladstone's death.

"The circumstances of our assemblage to-night are not wanting in the elements of dramatic contrast. Out of courtesy to our guests, who, by a curious convention, are supposed to be averse from serious discussion ; out of concession to a week almost wholly given over to lightness, the subject of our debate to-night was of an altogether trivial character. We came here with jests upon our lips, but they have been frozen before they could find expression by these tidings of death. Certainly I shall utter the feelings of this House, when I say that we must all be acutely conscious of the impropriety, the impossibility, at such a time of such a debate.

"Within the walls of this assembly, more than of any other, with the single exception of Westminster, is the rare tribute we shall pay to-night an appropriate one ; and in one sense we shall not even yield up our claim to the House of Commons. We cannot forget that if the splendid maturity of his life was theirs—ours, and ours only, was its brilliant dawn, and our claim to mourn over its pathetic end is not less.

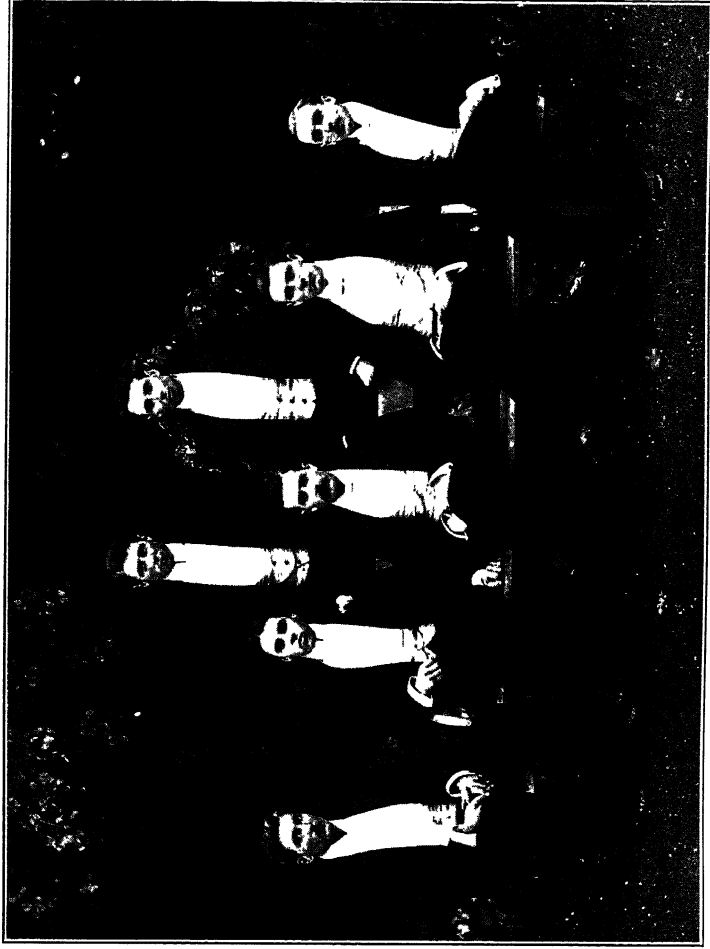
"Nearly seventy years, Sir, have passed since Mr. Gladstone sat in the chair you fill to-night. He enjoyed, in the discharge of your office, a wealth of contemporary reputation to which I conceive that none of his successors has even approximately attained, and during those seventy years all parties in this house have admitted

him with ready assent the most illustrious ornament in the annals of the Society. Other great statesmen, Sir, have sat since Mr. Gladstone in your chair; there have debated within the walls of this Society poets like Swinburne, known wherever the English language is known, men of letters like Ruskin, and a long roll of prelates and judges, the mere recital of whose names would exhaust the patience of this house—yet I think it was said of none of these, as it was said of Gladstone the undergraduate, ‘A man is risen in Israel this day.’

“In public some of us have exercised, from time to time, our wit and rhetoric against him, but in private, when we would give a high impression of this Society to those unfamiliar with its history, it was the name of Gladstone which rose first to our lips. There are times, and I think this is one, when we who have busied ourselves in however inconsiderable a degree in party politics, are glad to say with Mercutio—‘A plague on both your houses’—when the desire is strong within us to express sorrow with more than the perfunctory courtesy of political opponents. We remember that the last seventy years have been pregnant with changes in our national life—social changes—political changes—economic changes. Of these Mr. Gladstone ‘*pars magna fuit*’, and the part he played was always distinguished, always strenuous, always single-hearted. When we think that after the stress of these anxious years the tired body and the busy brain are still, we can think of no better epitaph for him than the words: ‘After life’s fitful fever he sleeps well.’

“We are all proud that so distinguished a personage should have gone forth from our midst, but we are prouder far of the public high-mindedness and private conscientiousness, which the wearer of it never lost. And we are proud, too, not only of the composure with which Mr. Gladstone met death—for the nature of his religious convictions made that composure certain—but of the dignity and fortitude with which he supported the tortures of acute physical pain. All of us were glad to associate ourselves with the letter of sympathy which the Vice-Chancellor, the mouthpiece of this University, wrote to Mr. Gladstone. I am sure that all of us read the reply with feelings of profound emotion. I remember the words of it: ‘There is no expression of Christian sympathy that I value more than that of the University of Oxford, the God-fearing and God-sustaining University of Oxford. I have served her perhaps mistakenly to the best of my ability. My most earnest prayers are hers to the uttermost and the last.’

“I think there is no one in this house, whatever his own religious belief, whatever his view of the efficacy of prayer, who will not be moved by the thought that the prayers of such a man at such a moment were given to this University. Sir, I beg leave formally to move the motion, ‘that in view of Mr. Gladstone’s death, this house do adjourn.’”



THE OLYMPIC DINING CLUB

Wadham College, Oxford

A group including W. H. Anstie, Adair Roche, C. B. Fry, F. E. Smith, W. S. Lee,
and R. B. Littlewood.

SCHOOLS (1895)

WHEN F. E. Smith had taken his second in Honour Moderations, he persuaded the College authorities to let him read for the Final Schools in Law instead of Classics. He was firmly resolved to seek success at the Bar and knew that two more years devoted to purely academic studies would, in his case, be wasted. The Wadham dons agreed, but, as we have seen, F. E. was slow to settle down to his new school, preferring to wander in the fields of English and foreign literature.

While he was nominally engaged in the study of the law he was for a time entrusted to an outside tutor, who was known to the Undergraduates as "Old Footrot", for according to report one of his legs was made of cork. There was a general uncertainty as to which was the sound and which the artificial limb. Smith together with a rather backward friend was sent to him once a week for tutorial classes. "Old Footrot's" memory was ebbing, and when his pupils asked him a difficult question, the answer to which he could not carry in his head, he would swing round in his revolving chair and consult a text-book in a book case behind him.

Smith knew this movement by heart. One day he remarked to his friend that the hour's tuition was tedious and uneventful, and that he had thought of a plan for enlivening it. Smith was to ask "Old Footrot" a knotty question in constitutional law, and when he turned round to take the appropriate book from the shelf his friend was to thrust a pin strongly into the cork leg, and they would both have the diversion of watching the pin protruding from their tutor's trouser leg for the rest of the hour. Smith was to ask the fatal question, his friend was to do the deed. The friend half-heartedly agreed. The three settled themselves down and the hour began. The other man whispered to Smith: "Which leg is it?" "Oh, the right," said Smith

carelessly. Smith then asked some innocent but obscure question. "Old Footrot" swung round in his chair and groped in the bookshelf. The other man, pale but resolute, leaned forward and bravely thrust home the pin into the right leg. The result exceeded all their hopes; "Old Footrot" gave a wild cry and leaped into the air, clutching in agony a perfectly sound leg.

Smith was most apologetic to his friend, but was forced to make a full confession in order to save him from being sent down. He pretended to have been honestly mistaken; but the truth of the matter appears to be that both "Old Footrot's" legs had been sound from birth.

The months passed pleasantly; the year 1895 came round, the year of Smith's Schools. There were athletics, there was the Union, and there were social diversions; there were picnics on the river, tennis and bathing, and the pleasant idleness of the summer term. It was in these moments that F. E. Smith loved Oxford best, when the summer sun glittered on the vanes of Magdalen tower and the cupola of Queen's stood out against a deep blue sky: those hot drowsy afternoons when one could plunge into lucent green water and then lie naked and bake the body on the riverside at Parsons' Pleasure, play tennis or lie peacefully on the scented grass and watch the cricket at the Parks. In the warm evenings they would take a punt and drift downstream and eat their dinner between the moving banks covered with king-cups and iris flags. There were lunches in the ancient Wadham rooms, with fragrant salads and brown ale in battered silver tankards, and idle reading under the dark coolness of the great Wadham cedar tree. But up to a period of six months before the Final Schools there had not been any work. Meanwhile the sands were running low. Smith found himself in the embarrassing position of one whose social commitments, and extravagant tastes, compelled him to exceed a small income, and who yet had no one to whom he could turn for help. He was driven to increasing his comforts by a judicious use of the much abused system of Oxford credit. He went into debt to the extent of about £400. He had no possible method by which he could discharge these debts; he had no one behind him; his creditors began to make polite but firm applications. Had they chosen, they could at any moment and with no prospect of resistance on his part have made him bankrupt.

F. E. Smith suddenly realised with a chill the crisis that faced him. For the second time his career was in jeopardy. The first was when he sat for a Wadham Scholarship. He realised how heavy were the mill-stones of debt which dangled round his neck, and he realised, too, the vital necessity of a First Class if he was to disembarass himself of them. A First Class meant to a man with his record an assured Fellowship: a Fellowship meant a stablished and honourable position, and a breathing space, but above all it meant an opportunity of unloading his debts, which not only appeared to be a barrier to a career, but even menaced it at the outset with an ignominious extinction.

He had thought of these matters before: but he had never seen them in true perspective; he knew that he had been idle, though he could not afford the luxury of idleness, and his mind had always been troubled when he allowed it to play upon his bills. Now he had to stake all on success in a searching academic test, the Honour School of Jurisprudence. He had allowed himself to approach within six months of this examination without buying a technical book. He did not need a First Class as so many do as a pleasant academic recognition, or as a few diffident men desire it, to bolster up their self-mistrust and to give themselves a firm intellectual anchorage. It was, or appeared to be, a question of emergence or oblivion.

Smith handled the situation characteristically. He severed himself from his friends, by whose society, as he well knew, he was too easily seduced from work, and he took rooms in that ghastly square of yellow brick which nestles in decent obscurity behind Beaumont Street and is familiar to its unfortunate inmates as Wellington Square. He carted a library of law-books into his lodgings, and became an anchorite. For six months without break he worked fourteen hours a day. For six months, from early morning until the small hours, his pumps were on his feet. A violent ride on a safety bicycle round Wellington Square each day before breakfast was during this period his sole—his unspeakable recreation. This method of treating a critical period in his life revealed his temperament as it remained unaltered until death. This one incident is a microcosm of the whole. It reveals a temperament which naturally recoiled from labour, but it revealed also a clear understanding that, even to a mind which worked at high pressure, labour was and would continue to be an indispensable adjunct to success.

The examination came in June, 1895 ; in spite of his intensive work Smith approached it with no great feelings of confidence ; during that last feverish anxious day before the Final Schools he felt in his head a tangle of jostling impressions and clouded memories, and when he entered the Examination Schools, that mausoleum in the High Street in which so many ambitions have been laid to rest, he felt that he knew nothing.

When his Schools were finished, Smith called a meeting of his creditors : his prospects were bad. He felt that he had not distinguished himself in the Schools, and he knew that failure to obtain a First Class meant bankruptcy. His business was to persuade his creditors that they would gain nothing by reducing him to extremities, while his own career must be irretrievably ruined. He settled them comfortably in chairs, and addressed them to this effect. He tried to show them the futility of such a course, and made an eloquent appeal to their better feelings. But their better feelings had already been exploited by generations of adventurous undergraduates, and the appeal at first met with no sympathy. He went on to sketch to them his dazzling prospects, and to show the folly of ruining a man destined for a Fellowship and a long residence in Oxford. The creditors remained unmoved, until the senior partner of Castells, the tailor in Broad Street, rose to his feet and proposed that an extension of credit should be given to F. E. Smith, adding that he himself believed in him, and desired to give him another chance. The proposal was supported by Gillman, the bootmaker in Holywell, and finally agreed to by the body of Smith's creditors. Thus he received a breathing space, until the results of the examination should be announced. There followed another unpleasant period of anticipation. Smith supplemented his dwindling funds by accepting tutoring appointments. His first experience was discouraging. He had answered an advertisement of an appointment of this sort in the *isle of Skye*. He received a telegram confirming the appointment and containing the curious enquiry as to whether he possessed a tail coat. Smith wired back with some hauteur : "Naturally possess tail coat arrive Friday." He borrowed the money necessary for the long journey, and on arrival was shown into the servants' hall, and was perplexed by the butler's saying that he might commence his duties at once. After some further embarrassment it was found that the telegram had been

sent to one of the college servants at Wadham who was also named Smith, and had been given to the undergraduate by mistake.

The moment was approaching when the results of Schools were to be announced. Smith went through another period of terrible anxiety. To-day the results are announced in the leading newspapers; then candidates had to undergo the misery of listening to them being recited on the steps of the Examination Schools. On the appointed morning a crowd of young men, Smith amongst them, assembled outside the Schools. This was the critical moment. The reading commenced—it was the refinement of cruelty: starting with the First Class, the names were read out in alphabetical order. The recital took its melancholy course through the earlier letters of the alphabet. Smith waited with thumping heart and dry mouth as it passed through the P's and the R's and entered the S's. He heard the name "Schwab" read out. "By God," he said to himself, "this is getting a bit near the bone!" Then the voice suddenly spoke his name—and the ordeal was over. It was clearly the moment for celebration: Smith hired four punts and stocked them with champagne and food and invited all the friends he could find to join his party. In the evening they floated down stream from Folly Bridge, clad formally but inappropriately in evening clothes. There is no record of the fortunes of the party, except that the punts were found next day floating empty downstream, and the guests were found sleeping in a hayfield, still clad formally and now even more inappropriately in evening clothes.

Next year, 1896, Smith achieved what he always considered the greatest triumph of his life. He placed it above his maiden speech in the Commons, and above his judgments as Lord Chancellor. He became Vinerian Law Scholar, thus winning the blue ribbon of Oxford Law, and defeating *en route* W. S. Holdsworth, to-day recognised as the most learned academic lawyer in the country, now Fellow of All Souls, Vinerian Professor of English Law in the University of Oxford, ex-Fellow of St. John's College, Oxford, and author of the monumental *History of English Law* in nine volumes. Even at the time of the examination Holdsworth's name was famous, and his record brilliant. Smith could not imagine why Holdsworth had entered: he was in despair, and almost withdrew his entry. He decided to

go in, and concentrated entirely on Roman Law. His paper amazed the examiners: it showed extraordinary erudition and mental grasp.

F. E. Smith's character as a young man is well put into words by the speech made forty years after by F. W. Hirst in Wadham Hall, at a dinner given by Sir John Simon.

"With a little more work F.E. might have gained his First in Mods, and with a little more luck his Rugby Blue. In scholarship as in athletics he yielded in his own year to C. B. Fry. But he was fond of the classics, and always kept up his Latin. I possess, thanks to the generosity of a friend, a very pretty Elzevir edition of Seneca with the Birkenhead bookplate, and its modest or defiant '*Faber meae fortunae*', a challenge to heredity. . . . An outside observer would certainly assert confidently that F. E. Smith's title to fame and greatness must rest on his brilliant successes in politics, and the law: at the Union, Belloc was our chief orator, but Smith was the wittiest and most successful speaker in Union and college debates. I have never laughed so much in my life as on the night when he introduced Anstie, disguised as McVey's uncle in the garb of a Scotch laird, into the Wadham Debating Society, and gravely asked Simon, who was then President, to allow the old gentleman to keep on the battered top-hat, which half concealed a wig of red shaggy hair. It had been put about that the laird was going to pay McVey's debts, and the whole college was in hopeful suspense until the imposture was discovered. Then there was a rush, and a scene ensued in which we all took a hand, as in Bret Harte's *Heathen Chinee*. . . . From the first F.E. was conscious of the talents and qualities that make for success at the Bar and in public life. He was ambitious: eager to rise in the Cursus Honorum, keenly interested in party controversy. Not for him the *Secretum iter et fallentis semita vitae*, which Horace and Cowley deliberately preferred. Nor did he sigh, like Rosebery, for the palm without the dust, but fought his way upwards and onwards with bravado, delighting in his own prowess, failing when he did fail from recklessness, never from timidity or over-caution or lack of self-confidence. If he was inclined sometimes to be arrogant and overbearing, he was wholly free from the much worse vice of false humility and hypocrisy. Thus when a change of leadership was suggested just before a general election, he replied: 'We must not swop donkeys crossing the stream.' With real friends he would exchange views frankly and freely. I often found him cynically candid when we were discussing politics and exploring the faults or failures of politicians. He was too adventurous to be a Conservative except when an institution or privilege which he valued seemed to be in danger. Consequently the principles or ideals of the party to

which he attached himself seldom excited his enthusiasm ; and perhaps that is the reason why (though a good enough party man) he never courted martyrdom except in Ireland, where so many hopes and reputations lie buried. But he was a good comrade, a loyal colleague, and one with whom it must have been a pleasure to go tiger-hunting.

"It was perhaps in private life, in the give and take of congenial society, in witty repartee, in lively cut and thrust, and above all in the invention of marvellous stories about his friends and acquaintances—often founded on some frail substratum of fact—that his talents shone most brightly. If he had been a Pepys or if a Boswell could have been found for him, he would have gone down to posterity as one of the most brilliant and original and entertaining talkers of his own, or any other day. Even Sydney Smith would have found his match in F. E.

"Some of you will remember his ludicrous account of a clandestine night excursion from the college to introduce Simon to the Oxford Conservative Club, when Smith, Fry, Simon and myself made up the party. I shall never forget his scrupulous anxiety to be quite precise and exact about the placing of the ladder against the college wall 'at a point equidistant between the chapel and another place less honourable, but not less useful'.

"One thing I must say in conclusion, and I can say it here to-night among his old friends without fear of contradiction : there was in his character something human and divine, a vital spark of heavenly flame. He had a genius for friendship. Those whom he liked or loved, he would never forget or forsake. He rejoiced in their successes, sympathised with them in their sorrows and afflictions. I would ask, as Pliny once asked, and with equal confidence : '*Quid enim aut illo fidelius amico aut Sodale jecundius ?*' '*Sodalis !*' That word sums up the genius as distinct from the talents of F. E. Smith. He united a large heart to first-class brains. He was the best of friends, the best of comrades and good companions, and as such he will live in the thoughts of all his contemporaries, and this occasion, so happily chosen by our host, will help to keep his memory green in the college."

FELLOW AND TUTOR (1896-99)

F. E. SMITH was elected to a Fellowship at Merton College in October, 1896. He was the first Fellow elected to teach law at that college. He was selected and recommended to the college for the post by a small committee consisting of Warden Brodrick, the present Warden of Merton, Mr. Bowman, and Mr. W. How. He remained in residence for three years, until 1899, and performed excellent work as a tutor, both in lecturing and private tuition. The Merton authorities realised from the first that he was unlikely to stay long, and this was the only misgiving which they felt in his election. He lectured with a minimum of notes, but with easy command of the subject, and with growing popularity. Characteristically he made more money than other tutors by lumping his pupils together in large classes, and it was the precious leisure of the vacations that rounded off his intellectual equipment.

In 1897 he became lecturer at Oriel, in 1898 University Extension Lecturer in Modern History, examiner in Final Schools at Oxford 1899-1900, and Extension Lecturer in Modern History at the Victoria University, Liverpool, in 1900. His historical subject was the Stuart period in which he had become so absorbed as an undergraduate.

For a time he kept a dog in college. The Warden, seeing him enter the lodge followed by the dog, drew him aside to remonstrate, and spoke of the complaints which the undergraduates would soon be making. Smith was undefeated. He replied at once that when the undergraduates saw him and his dog they would say to themselves: "There is one of the rewards of industry; that man has worked hard, he has become a Fellow of his college, and now he is allowed to bring his dog into this quad. Now I, instead of lounging in this quad, will return to my room and work, so that perhaps one day I may legitimately lead my own dog through these college gates." But the dog became

too friendly with the undergraduates, who one day persuaded it to attend vespers in the college chapel. After this it disappeared from university life.

In the summer Smith played tennis, often with Mr. How, who recalls that he was not a sound player; in those days he had something of a service, and reach and ability at the net, but hardly any ground stroke. He kept up his Rugby football, but most keenly he took up riding and hunting. We shall have occasion later to describe his activities in the hunting field.

We have already referred to F. E. Smith's genius for friendship: to this was united a genius for companionship, which is a different quality. Mr. Amery and F. E. Smith went wandering in the Levant when both were new Fellows of colleges, Amery of All Souls, and F. E. of Merton. In the spring of 1898 they decided to go on the expedition together. Amery suggested that they should visit Greece, and proceed to Asia Minor if their funds held out. Each of them collected £100 for the expedition. They started from Dover in March; sheets of rain were falling, and the Channel was churned up by a howling gale. Having no adequate protection against the wind and rain, they bought bright yellow fisherman's oilskins and sou'westers, which lent an unusual distinction to their appearance both at the Lido, and in the heart of Asia Minor. They spent the night at Ghent and rocked with laughter over the antics of a donkey in the dark tent of a tiny travelling circus.

Next they came to Venice. F. E., steeped in Venetian lore, in the dark past and sinister régime of bygone Doges, revelled in the green canals and crooked streets and the beauty of hidden churches. Amery, emerging from a more pedantic survey of Bellini's Madonnas in which F. E. had resolutely refused to join, found him in a state of great excitement and enthusiasm over an enormous ivory inlaid oak four-poster bed with pink brocade hangings, a wardrobe and several massive chairs to match, all of which he had acquired for £70. This action was typical:—he had no house in which to place this great bed, and he had only left himself £20 to continue the voyage—but he had liked the set, and had bought it. Amery told him, with some sternness, that if he made the purchase, he would have barely enough money with which to return straight home, and that he would be forced to continue the tour alone. Amery therefore assumed the first of his many aliases and became F. E.'s tutor,

explaining to the merchant that the purchase was conditional on his approval. Amery then persuaded F. E. to hand over all his money and consent to an allowance of five francs a day.

Next they made for Trieste and from there down the Adriatic. An elderly German lady approached Amery soon after the boat had started and said to him : "What a wonderful thing it must be to have such a friend," pointing to F. E., who was sitting with her daughter. Amery, a little surprised at her warmth, agreed, and found in further conversation that F. E. had told her that he devoted part of an enormous fortune to assisting poor boys of promise, that he had brought up Amery, and was now showing him a little life before settling him down in the country as a schoolmaster or clergyman.

They arrived in Corfu, with its blooming fruit trees and groves of ripening olives, and little guarded bay. At Patras they changed into a Greek steamer going up the gulf of Corinth. "This", said Amery, "was one of life's unforgettable days : to our left was the mainland, the low lying coast of Missolonghi where Byron died, then the fantastic walls, zigzagging up the hill-side and down again, of Lepanto, off which Don John of Austria fought the great sea-battle that broke the Turkish power at sea, then, behind other smiling little ports, mountains rising steadily higher to the peaks of Parnassus. To our right was the rich vineyard-covered plain which grows most of the world's currants, backed by tier upon tier of green hills, rising into high grey mountains with the snow-capped summits of Arcadia overstepping them, suggesting secluded green valleys and waterfalls, and all the romance that the name of Arcady has ever conveyed. Immediately round was the gulf itself, blue and aquamarine, sparkling in countless rippling laughter in the all-suffusing luminous atmosphere. We lay on coiled ropes in the bows and revelled in our first vision of Greece. F. E. compared his emotions—when this land with its storied past of soldiers, patient philosophers, exquisite poets and sculptors lay bare for the first time before his eyes—with those felt by Oscar Wilde :—

"The sea was sapphire coloured, and the sky
burned like a heated opal through the air ;
we hoisted sail : the wind was blowing fair
for the blue lands that to the Eastward lie,
from the steep prow I marked with quickening eye
Zacynthus, every olive grove and creek,

Ithacas cliff, Lycaon's snowy peak,
and all the flower-strewn hills of Arcady.
The flapping of the sail against the mast,
the ripple of the water on the side,
the ripple of girls' laughter at the stern,
the only sound—when 'gan the west to burn,
and a red sun upon the seas to ride,
I stood upon the soil of Greece at last."

At night they entered the Corinth Canal, and crossed the Saronic Gulf to the Piræus. Amery wrote: "It was a night of magical beauty, a night for young men to muse over all the storied past around them, to confide in each other their dreams and ambitions for the future, and to grow together in friendship."

Next day they desired to hire a sailing boat to cruise among the Aegean Islands and skirt the coast of Asia. Amery, in his correct modern Greek, was bargaining with a boat-owner, but found a difficulty in making himself understood, until a superior-looking Greek came up, and in good English suggested that he should interpret for them. Wishing to reward him, and not liking to do so with money, they invited him to a glass of wine. He raised his glass and asked politely who they were. "I am the Lord Mayor of Liverpool," said F. E. at once, "and my friend here is the Regius Professor of Greek at the University of Oxford." "Why, I've been in Liverpool for twenty years," said the Greek in surprise, revealing himself as a rich merchant, who had retired to his own country. "My youthful appearance astounds you," said F. E., reading his thoughts, "and it is quite true that I am the youngest Lord Mayor in England. I was barely 35 when they elected me as a tribute to my remarkable successes at the Bar, and in gratitude for the services I had rendered my native city in several important cases. But, after all, my career is nothing to that of my friend Professor Amery, who is even younger than myself but is already recognised not only in England, but on the whole Continent, as the greatest living Hellenic scholar, in fact the Porson of our time." The Greek was delighted at this random meeting with two such distinguished persons, and invited them to a dinner to which were also bidden the Cabinet, the professors of the University and other distinguished Athenians. This was becoming dangerous, and pleading important business in Smyrna they set sail upon a tiny steamer filled with hundreds of filthy pilgrims, who

were visiting a shrine in a neighbouring island in order to kiss a miraculous ikon. After joining in the ceremony, F. E. and Amery, feeling hot and tired, rowed out for a bathe. Their object in doing so was a matter of keen debate among the pilgrims, and Amery was infuriated by the Captain's story that he had overheard one pilgrim say to another: "I do not understand it at all: the big one looks quite clean."

After leaving Smyrna they went to Ephesus. In the same compartment in the train was an English clergyman. F. E., to pass the time, pretended to be a Roman Catholic, and began a violent attack on the Church of England. His doctrinal knowledge was limited, and he found himself being gravelled in the argument, so he remarked that he had only stood up for the Church of Rome, as the church of his forefathers, and that personally he had little faith in any doctrinal religion. "If I believed in anything of the kind," he said, "it would be that wonderful philosophic faith of Buddhism, of which my friend Professor Amery here is the greatest living exponent. A talk with him would, I am sure, convince you that there is much beyond and above the limited theology in which you have been brought up."

The argument passed to Amery's hands: while he was stirring his memory for some misty recollections of Buddhism, the clergyman told him acidly that he had spent fourteen years as a missionary in Japan studying Buddhism, but that there were various points on which he would be glad to be instructed!

When the holiday ended, Amery found in it a "storehouse of happy memories and a bond of understanding".

In 1897 the Prince of Wales was invited to come down to Oxford to open some municipal buildings. It was known that the ceremony would be the occasion for a great demonstration on the part of the undergraduates. The local police, who know so well how to blend firmness with concession, were superseded by mounted metropolitan policemen, unused to the antics of undergraduates, who saw in an excited but good-tempered Oxford crowd the nucleus of a dangerous mob. They behaved throughout the disturbance with extraordinary folly and panic; several undergraduates were severely injured with batons, several were ridden down. The crowd lost its good temper, pulled a policeman off his horse and trampled on him. It swirled up the Cornmarket and down the High Street. Bear Lane, a narrow

and ancient street, became a coign of vantage ; the police entered it, and drove the crowd before them with baton blows. F. E. Smith was in the front line. He claimed to have taken no part in the fracas up to this moment. Suddenly he saw his scout's boy¹ struggling in the crowd and being violently man-handled by the police. F. E. Smith immediately pressed into the crowd and interfered. He was lodged in the cells for the night, and charged with assaulting the police and interfering with them in the discharge of their official duties. When he was taken he looked up at a window from which his friends leaned. With great presence of mind he called upon them to witness that he had gone quietly.

The cell to which he was conducted was in a new wing of the police court which had never been used before. When he was ushered into it, Smith raised his hand for silence, and remarked in dignified tones : " I have great pleasure in declaring this cell open."

The case created the greatest excitement in Oxford. It is unusual for an undergraduate to find himself under lock and key after a collision with the police ; for a don it was unprecedented. Smith was by this time a familiar figure in Oxford ; his academic record was well known : he was Vinerian scholar, a Fellow of a college, and a popular and well-known tutor. The opinion of the great personalities of the time ran strongly against the action of the police and the inadequacy of the magistrates. Professor Ray Lankester wrote to Smith :

40, NOTTINGHAM PLACE,

May 22, 1897.

MY DEAR SIR,—

I hope you are not going to submit to the gross injustice done to you. The whole of this police business is a disgrace to England. There are two points about the Oxford affair. 1st. Ruffians with bludgeons were specially brought to the town from London by servile corrupt magistrates and called upon to deal with the natural results of their wickedness and brutality. There would have been a bit of horse-play in Oxford, but no heads broken, had not these London police-bullies been brought down. 2nd. The real point we ought to attack is the training and keeping of a metropolitan reserve force of police who are *taught* and *encouraged* to be unscrupulous both in

¹ The assistant of his servant or "scout."

the brutal use of their bludgeons and in their perjury. There is only one vulnerable point in that matter. It is Sir Edward Bradford. He is a public servant, and is responsible for the brutal behaviour of his men. He is not only responsible for it, but he encourages it and glories in it. I believe the proper course for you is to get a question asked in the House by Mr. Mowbray, the member for the University. I see that the Home Secretary's son was in one case, and the word of these professional perjurers was accepted before his. It is really time that an effort was made to break down the brutal insolence of Scotland Yard. It can only be done by an attack on Bradford. He ought to be impeached, his salary docked, and be made to defend himself.

Yours very truly,

E. RAY LANKESTER.

The case also attracted the sympathetic attention of the great jurists, Professors Dicey and Anson. Dicey wrote :

THE ORCHARD,

BANBURY ROAD,

OXFORD.

MY DEAR SMITH,—

I am glad your case was adjourned till Friday. The complaint made by you as well as the complaint made against you can then be more fully gone into. I doubt whether to-day you would have got justice. The magistrates are naturally and perhaps rightly inclined to support the police who were engaged in the discharge of a difficult and irritating duty. But the magistrates are clearly not alive enough to the danger of the police having acted as they certainly did in your and Collins' case, with injustice and violence. This will not be brought home to the magistrates unless your defence and your prosecution of the police is conducted with great vigour by a competent counsel who can force the points home, and can thoroughly cross-examine the constables. My urgent advice to you is to procure a good counsel used to criminal proceedings and to cross-examination. You do not want anyone very extraordinary, but you do want a thoroughly good man. If there is a good man of this sort in the Oxford circuit you should retain him as this, I suppose, would be the cheapest course. If not you should get some competent counsel from London.

You are defending the public, and the defence should certainly not fall totally on you. Your friends and persons interested in the matter should help. I will most gladly, if you will allow me to, subscribe £5.

You should at once consult the Warden of Merton; I have written to him in the sense of this letter.

Yours sincerely,

A. V. DICEY.

When the case came on, the galleries of the police court were crowded with Smith's friends and others whom curiosity had attracted to the scene. Throughout the proceedings the magistrates showed a blind willingness to accept the depositions of the police. The constable swore that the defendant had struck him: F. E. Smith maintained that he had kept his hands behind his back. It was clear that this was a severe contest of testimony. Dr. Galpin, who was prosecuting, exclaimed: "What do you mean by accusing this officer of wilful and corrupt perjury?" Smith threw up his head with a look of incredulity on his face, and threw out the word:

"Perjury! I have never accused him of perjury!"

"What other possible explanation", asked Galpin angrily, "is there of your remark except that this officer was guilty of wilful and corrupt perjury?"

In an instant Smith had flung out the five fingers of his right hand in Galpin's face, and said rapidly:

"It is one of five possible explanations. The first is that *he* is guilty of wilful and corrupt perjury, the second is that *I* am guilty of wilful and corrupt perjury, the third is that he is honestly mistaken, the fourth is that I am honestly mistaken, and the fifth is that the two statements, though apparently contradictory, might none the less be reconciled!"

The case ended in Smith's favour, and the following paragraph appeared the next week in the *Isis*:

"One of the most curious features of Mr. F. E. Smith's case in the police court last week was the contrast between the bench and the audience. The Oxford Magistrates are doubtless very worthy persons in their private capacity, but they cannot claim to have more than a rudimentary and empiric acquaintance with the law. Directly facing them, however, were Professor Dicey, the Warden of All Souls, and Sir William Markby, each of whom has more law in his little finger than the whole of the local bench put together. I wonder what

these *real* lawyers thought of the implicit confidence which the city magistrates showed in the police evidence."

What one of the proctors thought of the whole proceeding, is shown by the following letter written by Dr. Wells, the future Warden of Wadham, then proctor and afterwards to become Vice-Chancellor of the University.

WADHAM COLLEGE,

May 22, '97.

MY DEAR SMITH,—

I think you ought to be congratulated on having triumphed over the city's blank belief in the police. You are certainly to be condoled with for the absurdly cavalier way in which your counter-charge was dismissed. You seemed to me to prove your case up to the hilt. You certainly have done Oxford men a service by showing how worthless was the evidence on which men were convicted of being drunk and disorderly.

Yours v. sincerely,

J. WELLS.

It was at Oxford that F. E. Smith cultivated his genius for friendship. This power of friendship is observed by all his contemporaries to have been his most fascinating and characteristic trait. To it was closely united a profound affection for institutions which were dear to him, and in which he had tasted the pleasures of success, so that when power and patronage came to him, he was eager to assist not only those with whom he had been intimate, but any member of any institution which he valued. Although he was never guilty of a bad judicial appointment, he was inclined to give an immediate preference to a Wadham man, or a member of the Northern Circuit, even if he had not been intimate with him. He liked to enhance the prestige of his college and circuit as well as to serve the interests and reward the merit of a friend. We have dwelt on these characteristics, because they are fundamental to the nature of the man, and the key without which many of his actions may be misinterpreted and misunderstood.

Another characteristic which appeared at Oxford, and remained with him until death, was that almost eighteenth-century magnificence in which he chose to live, and the rich vein of conviviality which lay deeply coiled in his nature. He emerged from Oxford handsome, polished and extravagant, with the air of a

man who had an inherited genius for high living and for the grand manner. This was in essence a natural characteristic, which the modesty of his circumstances, and his provincial upbringing, had prevented emerging before he went to Oxford. He acquired the polish and the patrician manner as his interests became more cosmopolitan, and his circle of friends expanded : but it was acquired naturally ; it was drawn out of him by circumstances, rather than planted in him by his own conscious efforts. He was the "megalopsuchos" or "magnificent" man, whose picture is drawn by Aristotle at the beginning of the 4th Book of the Ethics ; the natural aristocrat, who might have mingled easily with Harley and Bolingbroke, or lent a hand to Swift's devastating satires ; he would have moved more naturally in the turbulent politics of the eighteenth century. Already he was driving his body hard, and drawing heavily upon the reservoir of its astonishing force.

The elegant Fellow of Merton with his horses and dogs and his many friends, his assured manner and facile tongue, was a very different person from the scholar who arrived at Wadham from Birkenhead School. At first circumstances conspired against magnificence. He was poor : his contemporaries were poor ; he was a member of a small and secluded college ; his manner was provincial ; he was a raw-boned callow unshaped youth, with few graces of manner or speech in society. At this period the records show us that he was quite unconscious of the sense of dress : he was roughly and unfashionably groomed, he was nothing of a buck. But in spite of these deficiencies he was perfectly clear about his attitude in life and politics, about his ambitions and his intentions, and at nineteen he was full of self-confidence. We can trace the growth of the gradually awakening instinct of grandeur. It grew as his leisure and means grew : his rapid progress at the Union led him beyond the narrow walls of college friendships, and brought him into collision with new minds and with different outlooks. He formed friendships with distinguished Christ Church men like Lord Beauchamp, and Magdalen men like Lord Balcarras, men rich, fashionable and cultivated, whom a common political ambition had attracted to the Union hall. Their society wrought a complete change in F. E. Smith. It stirred the dormant sense of magnificence, and caused it to blossom. We see the first fruits of the change in the photograph of the Wadham dining

club, called the Olympic Club (1894). Here we can read clearly how the raw freshman is ripening into the blood. It is quite an elegant figure which appears there, sitting near the exquisite Fry, and dressed in tail coat with blue waistcoat. The Olympic Club entertained guests from outside, and from other colleges. Lords Beauchamp, Balcarres and Donoughmore were frequent visitors. In this way Smith entered the more fashionable life of the University, which he knew so well how to enjoy.

This convivial, warm, eighteenth-century trait in Smith's nature was far too typical a characteristic to be passed over. Its influence was not entirely a good one; it led him into extravagances which he could not afford, and into debts which he could not pay. It was the direct cause of his carelessness in money matters, which lasted until the end of his life. F. E. Smith could always earn money, he could always live *en grand seigneur*, as to the manner born, but he was extravagant in spending, and indifferent to the management of his affairs. This indifference was beginning to appear, as has already been shown, when he was an undergraduate. He went to Oxford poor; his two closest friends were equally poor, and the three found themselves in arrears over the payment of their battels, or college bills. Dr. Wells, whose name is still breathed with profound affection by generations of Wadham men, decided to advance the necessary money from his own purse, but very characteristically he asked Mr. Wright Henderson and Mr. Richards to act as sponsors for two of the three undergraduates, because his self-effacing nature shrank from the credit of helping all of them. The money was repaid in after years. When Dr. Wells died, Lord Birkenhead, who was deeply moved, wrote to *The Times* an obituary letter, in which he recalled this story.

The undergraduate F. E. Smith was not insolent on principle, but he refused to be patronised by anyone, even if they were older and more distinguished than himself. One of the older dons was well known in Oxford for a peculiar trait. It afforded him an oblique pleasure to take clever undergraduates out for long walks, and give them enough conversational rope on which to hang themselves. He would walk in dead silence, and sooner or later the young man would think that courtesy compelled him to say something. Usually it was a banal opening remark. The don would then quickly snub him. One enterprising youth who had read a little of the *Divine Comedy* in translation thought to stir

the don to mild enthusiasm by expressing his interest in Dante, but he was at once crushed by the surprising reply: "Don't you think that Dante is rather provincial?" Smith was forewarned of this habit, and when the invitation to the walk reached him, his plan of campaign was ready. The couple started walking down the High Street. They made for Shotover Hill in unbroken silence. They walked for an hour: not a word was exchanged on either side: the don could stand it no longer; he struck his flag. "They tell me," he began in his curious rather high voice, "they tell me you're clever, Smith, are you?" "Yes," replied Smith and fell silent again. They turned round and made for Oxford. Not a word was exchanged on the homeward journey. They reached the college gate. F. E. paused and held out his hand. "Good-bye, Sir," he said, "I've so much enjoyed our talk."

One more miniature remains to be framed, the meeting of the undergraduate F. E. Smith with Oscar Wilde. They met at the meridian of Wilde's fame, when the lustre of his name was unclouded by disgrace, when he was still the shooting star of the nineties. Wilde was about thirty-five, Smith in his early twenties. Wilde was visiting Oxford when the brilliant dawn of his life had broken, where he had sat at the feet of Pater, and written the delicate triolets on which he had tested his poet's fledgling wings. A friend of Smith's invited him to lunch: "Do come," he said, "Oscar is going to be there." Smith had already recognised and admired the genius of the Irishman. He had heard, as all the world had, of Wilde's brilliant agility as a talker, how, like his own hero Henry Wotton, he "played with an idea and grew wilful, tossed it into the air and transformed it, let it escape and recaptured it, made it iridescent with fancy and winged it with paradox". He gladly accepted. When the party sat down to lunch, the dark, sharp-featured young man looked thoughtfully at Wilde. He had never seen him before: he observed the heavy jowl, the curled oily hair, the thick-lipped mouth. Wilde began to talk: he talked badly, for he was surrounded by youthful sycophants and he saw no incentive to real effort. Each sentence was greeted with an awed whisper from the talk of "how beautiful!" or "please tell us a fairy story." Wilde obeyed; he told how he had met a little snowdrop in a wood, preening itself in the dew, and how he had spoken to it. "How beautiful!"

came from the table. Smith sat in silence; his gorge rose; he was bitterly disappointed. Wilde continued to hold the table, as was his practice, and his golden voice sent forth a succession of simple fables from the sensual lips. He was the central figure in every story: each allusion was wrapped tightly round its author.

At 3 o'clock Smith rose to go: he murmured his thanks to his host and bowed over the squat seated figure of Wilde. He thanked him for his conversation, and added in his rather sibilant persuasive voice—"but before I go, Master, could you not tell us something about yourself?"

Oxford exercised an abiding influence upon his fortunes. She had stabilised his character and softened his manners. Her haunting beauty had conquered him. A nature at first alive most keenly to the stirrings of ambition was balanced by the complementary instincts of beauty and repose. She had enabled him to complete his education in eight years' wide reading; she had equipped him with an armoury of intellectual weapons. There is nothing in the world so niggardly as the manner in which Oxford rewards her distinguished sons. F. E. Smith in his journey through life succeeded in antagonising many elements in the University, particularly the clerical element. No man was ever united to an institution with a more abiding love than he to Oxford; no man had greater claims upon her; few have distinguished themselves more at the University. Yet she withheld from him a D.C.L. until it was too late for the honour to have any significance except one of affront—and violently opposed any possibility of his election as Chancellor. Years later, when he was Secretary of State for India, he wrote to Lord Irwin:

"The Oxford Chancellorship will naturally interest you and me, and you might be glad to have my impressions. I make no secret of the fact that in my humble judgment there is no one alive, who having regard (1) to his academic career, (2) to his record of achievement in public affairs, (3) to the sustained and constant contact he has maintained in relation to Oxford, has claims as high as myself. I received an invitation signed by five Heads of Houses and four of the most distinguished Professors in Oxford to stand, whatever the caucus recommended. But I have long since made up my mind that I will not contest the Chancellorship unless there was a sentiment so strong in my favour that one could almost describe it as unanimous.

My friends tell me that the clergy were against me. Of this I am the last man in the world to complain, but I feel that I have a small grievance that the clergy should deny me the Chancellorship of Oxford, to which I conceive myself on every ground of merit entitled, whilst by the same post I receive a letter from the Archbishop of Canterbury entreating me as an old friend to support the revised Prayer Book in the House of Lords. The caucus has elected Lord —. He is a great gentleman; he is a great friend of yourself and myself. But he certainly has an even more surprising claim. He gained the fourth class in Science, an academic achievement which I believe was not approached by any candidate for that school at that period for five years before or five years after he qualified for a degree. But do not think me bitter about the business. . . . As I have said, I love Oxford so much: I conceive myself so much in the debt of Oxford that I would not value the Chancellorship unless it came to me with the general recognition that on all grounds it was desired that I should undertake that office."

Smith's personality swiftly accepted the imprint of Oxford's charm. He became filled with the grand capacity for loyalties: his University career had been a record of unbroken successes scored against a background of idle pleasure. A first class in jurisprudence, the Presidency of the Union, the Vinerian scholarship, and a fellowship at Merton—these were the prizes which Oxford yielded him, and which launched him on public life. His friends were prone to imagine that "he took it by sovereignty of nature"; but they were mistaken. While he worked he put body and soul into the task; he became impenetrable by outside interests and impervious to distraction; united to this capacity for concentration was a rarer and richer gift, that of instantaneous mental grasp. He could penetrate at once to the heart of a complex problem; and quickly sweep away the verbiage which cumbered the path to the truth, and he learned to despise obscurantism or any influence which was hostile to clear thinking. Thus his brain was able to analyse and digest material far more swiftly than an ordinary intellect, and his fancy would animate and colour his conclusions. A natural humour was enriched by Oxford contacts, and his contemporaries are agreed that its play was as swift and its range as wide in Oxford as ever it became in maturity.

And yet there is something in the phrase, "sovereignty of nature", which we find applicable to the F. E. Smith who is now taking leave of the sheltered life. His friends were a brilliant

group, but he strode unconcernedly into the middle of the stage as though it was his prerogative to command, and the duty of others to obey. His spirit had never been fretted by failure, except only in the case of the Harrow entrance scholarship. He was impatient of dictation, a fractious subordinate, but a natural leader, and the trend of his life was to be such that the periods of subordination were few. Oxford had stiffened his mind into a new conciseness, but above all in the Union and in other lesser societies he had learned the gift of plastic eloquence which could soar into the most dignified prose or descend to the most virulent invective. He had touched University life at every point, athletic, social, political, and academic. Yet it would be false to describe him as the true academic type. He was an excellent examinee, but was wanting in the genuine ardour for research which is the appetite of the true scholar.

But above all, the spirit of Oxford had crept into his bones. Years later, when fame and prosperity had come to him, it remained his most powerful affection. He loved to visit Oxford and to renew the warmth of bygone triumphs.

Yet it would appear that even his confident spirit succumbed to moments of depression and doubt—moments when his belief in his own powers seems to have been shaken. These moments were few, and it was at one of them that he wrote to Professor Dicey, the renowned jurist of All Souls :

OXFORD UNION SOCIETY.

Wednesday 15 April 1896.

DEAR PROFESSOR DICEY,—

Many thanks for your letter, and the definition of bankruptcy. Mine missed the essential point. I am very grateful to you for the help you have given me and only wish I were likely to do it more credit, but I am beginning to fear I have not a very legal mind.

The temptation to stay at Oxford as a Fellow must have been strong. He enjoyed the pleasant life and the long vacations, but he wanted the world and adventure.

GRAY'S INN AND THE NORTHERN CIRCUIT

1899-1902

F. E. SMITH had been admitted as a student to Gray's Inn in 1894, and in the devotion which throughout his life he bore to this House, he showed at its best his passionate loyalty to institutions. As he selected Wadham College, so he selected Gray's Inn. It was the smallest of the Inns of Court; it was the most intimate, and it breathed to F. E. from its beautiful timbered hall the mellow enchantment of Elizabethan England. Every aspect of the Inn was, to him, a thing of infinite charm, the secluded Georgian Square, quiet as a lagoon after the turmoil of High Holborn—the square afterwards dominated by the statue of Francis Bacon, that Bacon of whom Pope wrote :

England's High Chancellor, the destined heir
 E'en in his cradle, by his Father's chair,
 Whom even threads the fates spin round and full
 Out of their choicest and their whitest wool.

The library, the common room, and above these, the hall, weaved their magic round him as potently as the adored façade of Wadham.

He pushed his way casually into the life of the Inn. Dinner at Gray's Inn Hall is encumbered by a medley of ancient customs. One of these is that the junior student dining must ask permission of the senior barrister before any smoking is permitted. Smith on his first evening in hall was the junior student. He desired to light one of the thin dubious cigars which in those days did duty for the aristocratic Habana. He rose to his feet prematurely and said: "Mr. Senior, sir, may we have your permission to smoke?" "Certainly not!" replied Mr. Senior coldly. "Why not?" said Smith, who felt that the controversy might be pushed a stage further. No

answer was forthcoming. As Smith himself recalled: "Mr. Senior, somewhat annoyed, said, 'No, you may not.' Unaccustomed to rebuffs of that kind, I rose and said, 'Why not?' Upon which Mr. Senior, having no suitable repartee ready, wisely remained silent. We were not allowed to smoke for a period which I believe was unusually prolonged in punishment for what was regarded as audacity in those days!"

But in 1894 Gray's Inn was far from holding the distinguished position among her sister Inns, to which F. E. Smith's disinterested loyalty contributed so much to raise her. She was, in 1894, the least favoured of all the Inns. As the Inn's most distinguished member for a century, he was able to add to its prestige in several different ways. He earnestly advised all young men whom he met to be called to the Bar, whether they intended to practise or not, and he urged them to enter Gray's Inn. He attracted also to the Inn brilliant young men from the Universities, to whom the many scholarships and prizes of the Inn were an added inducement. He collected many of those pictures of bygone children of the Inn which now look down from their oak panelling on the diners below. He brought Mr. Lloyd George to dine in the Inn in 1917, when the German U-boat menace was at its worst, and it was the walls of Gray's Inn Hall which listened to the Prime Minister's famous speech. F. E. Smith persuaded fathers to send their sons to the Inn, and he entered his own son at the age of fourteen.

Once years later as Lord Birkenhead he took Mr. Roberts, at that time his secretary, to lunch in Gray's Inn. His other guest was Mr. Patel, speaker of the Indian Legislative Assembly. Mr. Patel was a polite Hindu, but he proved difficult to entertain. Lord Birkenhead asked him what he would like to drink; warmly recommending the wines and beers. Mr. Patel, after some moments of anxious thought, said that he would like some water. "Ah, that is the only beverage in this Inn on which I am not qualified to express an opinion," said Lord Birkenhead, "but," he added loyally, "I'm sure you will find it excellent." There was present also Sir Dunbar Plunket Barton, formerly Solicitor-General for Ireland, and a High Court Judge. Lord Birkenhead delighted in Barton's breezy Irish stories, and used to repeat with amusement Barton's story of how he and Sir Edward Carson were leaving the House of Commons together when an excitable Irish Nationalist, dissatisfied with the modera-

tion of his colleagues, jumped to his feet and shouted—"Barton and Carson, Carson and Barton, ye may be the biggest blackguards on the earth, and I'm not saying ye're not, but I'd sooner stew in Hell wid ye than go to Heaven with T. W. Russell!"

Lord Birkenhead was Treasurer of the Inn four times and when his son came of age he asked permission of the benchers for the dinner of celebration to be held in the hall, and in the speech which he made on this occasion he laid bare his profound affection for the Inn.

"One has one's affections, domestic, of friendship, towards institutions. I never had a deeper affection for any institution in my life than I have for this House of Gray's Inn, which first called me to service in the State. Certainly one of the greatest pleasures and prides of my life has been to mark the growing prosperity of this House in the contemporary legal history of England . . .

"Mr. Treasurer, I should indeed be inhuman if I did not make it plain that I was deeply moved by the kindness which has placed this ancient hall at my disposal for a purely domestic purpose to-night. It is a hall which was rebuilt four years before Queen Elizabeth came to the throne, because the old one was worn out. This may give you some conception of the immemorial antiquity of this House. In this House the great Bacon matriculated as a boy of fourteen. In this House—you will not misunderstand me or imagine that I am establishing a comparison—but exactly at the same age of fourteen, I entered my son as a student. It is unlikely, it seems to me, that he will exceed the fortunes of the great Bacon; but I hope he may avoid some of his misfortunes. I believe them to have been two of the youngest boys who have ever matriculated as students of this Society. And of this I am certain, that just as the great Bacon loved this House, of which he was Treasurer seven times, just as he crept here for succour when he was wounded and ruined, because this Inn, he knew, even in a moment of deep and shameful misfortune, would never abandon him—although I hope that this son of mine will be spared these anxieties, and perhaps will never attain to a position which gives rise to these anxieties—I am sure he will emulate the great Bacon in his affection, allegiance, and devotion to this House."

We return to 1899, the year when he went into practice. His position was an anxious one. Behind him there was, indeed, his University record of successes, but there were debts too, and there were no reserves upon which to draw. His mode of living was too extravagant, and it was vital that he should make money quickly. He entered Mr. Leslie Scott's

chambers in Cook Street, Liverpool, and sat down to wait for briefs. He had met Scott the year before at Oxford, had congratulated him on some articles on Maritime Law in the *Law Quarterly Review*, and had arranged to enter his chambers.

The competition in the North proved as fierce as, or more fierce than, it would have been if Smith had started work in London, for a remarkable group of juniors was at that period in practice at the Liverpool Bar. Already in practice were the men who were to become Sir Leslie Scott, Judge Tobin, Sir Walter Greaves-Lord, K.C., Mr. Justice Swift, Mr. Justice Greer, Judge Maxwell, Judge Thomas, Mr. A. G. Steel, K.C., Mr. Collingwood Hope, K.C., and Sir Lancelot Sanderson. These were the chief members of a powerful coterie. They regarded the new-comer coldly, and when they saw the speed of his advancement must have watched his departure to London seven years later with mingled relief and sorrow. It must be borne in mind, when measuring the astonishing speed of Smith's rise, that he was competing throughout with men of exceptional legal calibre. At first business was depressingly slow, he was unknown to litigants, and had little influence with solicitors. His first brief reached him through Mr. Leslie Scott's absence on an annual holiday in Switzerland. It was the application of a woman named Mary McKanny, a client of John Wall of Wigan, for a licence to sell alcohol. This brief reached him in August 1899, while Scott was on vacation. Scott was asked to plead a number of licensing briefs, but refused to interrupt his holiday, and suggested that they should be entrusted to Smith. The nature of Smith's ambition is well illustrated by the manner in which he received the longed-for news of his first brief. He had waited in vain for a long time; then temporarily losing hope he arranged to go down to Cornwall on holiday. He had just arrived after the long and exhausting journey, and was shaking hands with his hostess, when a telegram was handed to him. It was from his clerk, announcing that there was a brief for him to appear at the Wigan County Court. He at once made hurried farewells, and returned to the station, leaving with regret the blue sea and rugged hills behind him.

This brief was experimental; the solicitor sent it to Smith to test his powers. He pleaded it extremely well and received for it five guineas, with another guinea for a conference. Other briefs followed, but his earnings during his first five months of

actual pleading were hardly in proportion to his needs. From August to December 1899 he made 48 guineas. Naturally there were many hours of leisure, and he occupied them by writing. He could not afford to neglect any opportunity of making casual earnings, and it was in the pursuit of money that he became Secretary to Cornelia Lady Wimborne's League for combating the introduction of ritualism into English Church services. The feelings against Roman Catholics were in those days most bitter, as were also the bickerings in the Church of England itself between the High Church Anglicans and the Evangelical sections. Religious education in State schools was also an acrimonious issue of current Party politics. It was difficult for a politician in the North of England to hold aloof from religious controversy. F. E. Smith had met Cornelia Lady Wimborne two years before he began to practise at the Bar. She knew that he was the son of a Nonconformist, and thought that he would be an energetic champion of the Evangelicals. He was invited to express his views at a meeting, specially convened, of the National Church League. He spoke with such fire and conviction that Mr. Joynson-Hicks moved that F. E. Smith be appointed organising secretary to advance the cause of the League in the North of England. He was not a religious man, and his acceptance of the offer was probably determined by the salary of £300 which accompanied it.

He took offices for the League and established his head-quarters in them. They were bare rooms. He went to an auction in the town and bought cheaply eight lithographs depicting the Virgin Mary in various episodes in her career. He hung them thoughtlessly round the walls of the League offices. Then he put up a brass plate on the door which said: "Lady Wimborn's League," spelling the name wrong. Lady Wimborne came up to Liverpool to see how the cause was progressing in the North. She looked with some disfavour on the misspelling. "How would you like it, Mr. Smith," she said, "if I were to spell your name wrong on a plate?" "My dear lady," answered F. E., "there is scarcely any alteration which you could make to it which would not add to its distinction." They walked up to the offices. Lady Wimborne gasped with horror when she saw the Madonnas. Next day Smith lost his post. He had already written a small book on Newfoundland which did not enjoy a very wide sale. Now, for the first time, he commercialised his

legal knowledge in letters, and wrote a book in the "Temple Classics" series on International Law. This work, written in a fortnight, made him £60. He had received £60 for the story of Newfoundland, and this nest-egg, as he admitted, "formed a considerable element in the decision which both I and my wife took in regard to when we were married". It was, in fact, largely on the strength of this newly acquired capital that he proposed to Miss Margaret Furneaux of Oxford.

She was the second daughter of the Rev. Henry Furneaux, distinguished Wykehamist and famous Latin scholar. Furneaux's elaborate edition of Tacitus still remains the standard edition in the public schools and the Universities. Mr. Furneaux was also a Fellow of Corpus Christi, Oxford, possessed a comfortable private income, and lived in the Banbury road.

Furneaux is a French name; the first Furneaux were Normans who came to England with William the Conqueror. The name of John Fournieu is included in that list of those who accompanied the Conqueror which is inscribed on the walls of the famous inn of William the Conqueror near Deauville. The family pedigree can be traced back to 1086, when Odo de Fornell was the head of the Somerset branch of the family; the records also show that Henry de Furnellis was the vice-sheriff of Cornwall in 1195-8, while the name of Furneaux may be traced throughout the tumultuous thirteenth and fourteenth centuries.

The family had for several hundred years been settled at the manor of Swilly in Devonshire. Two Furneaux fought at Crecy; Captain Tobias Furneaux, the explorer, was the companion and rival of Captain Cook in his voyage round the world. Far away in the South Pacific ocean there lies a ridge of volcanic hills rising abruptly from a royal-blue sea; these are the Furneaux islands discovered by Tobias. In 1773 Tobias Furneaux's nephew, Rowe, inheriting the vagrant spirit of his uncle, was eaten by cannibals when he was midshipman on his uncle's ship.

On her mother's side Miss Furneaux came into an artistic and literary heritage. Her mother was the daughter of Joseph Severn, the artist, who was the intimate friend of Keats, who died in his arms, and to whom he ministered with wonderful kindness during the poet's last months.

F. E. Smith met her mother, Mrs. Furneaux, dining with the

Provost of Oriel, just after he had become a Fellow of Merton. In the flattering academic setting she looked like a rose in a bed of nettles. He was immediately impressed by her appearance. "Who is that good-looking woman?" he asked someone. Soon after he met her daughter Margaret Furneaux at a mixed hockey match. When the match was being arranged, Miss Furneaux was told that a don had been invited to play. "Why ask a frowsty old don?" was her comment. Smith arrived in the prime of his Romany good looks, and Miss Furneaux saw quickly that he was neither old nor frowsty. On the field he played a game of extraordinary roughness, by the evening he was in love.

In his high-handed way he defied all discretion. It was a whirlwind courtship. Whenever Miss Furneaux appeared at a dance or a party Smith was there too. Mrs. Furneaux began to feel twinges of maternal anxiety. This young man was making her daughter "conspicuous", they were getting talked about, and having their names coupled together. She was also not convinced that his intentions were serious. Henry Furneaux liked him but suspected him of being a volatile type. "I know these rising young men," he grumbled, "they never seem to rise." One day the light dawned upon the parents. They saw Smith through an open door assisting Miss Furneaux, with incredible clumsiness, to hang pictures. Mrs. Furneaux's remaining doubts were dispelled by this reassuring glimpse, for Smith was hopelessly clumsy with his hands and always avoided unnecessary work of this kind.

F. E. Smith felt a great admiration for Henry Furneaux's magnificent scholarship and his charming and old-fashioned courtesy. He described him as a "great scholar and a great gentleman", a typical figure of the last generation of Oxford men with his stiff white shirt front and white tie, and famous Cornish stories. He conceived, too, a great affection for his mother-in-law, a cultivated and attractive woman—a profound reader and facile linguist. Educated in Paris and Germany, she lived for some years in Rome with her father, Joseph Severn, when he was British Consul. His house was a salon at which all the interesting people in Rome gathered: the Abbé Liszt visited them often, and Mrs. Furneaux remembered her father, who was leaving Rome for a few days, carefully locking the piano and taking the key with him in case Liszt should come and play on it in his absence and break yet another note. Her

brother, Arthur Severn the artist, was married to Joan Agnew, Ruskin's relative and adopted daughter, and Mrs. Furneaux had travelled all through France with Ruskin in a lurching carriage to visit the Cathedral towns. The Furneaux's Oxford house was visited by Froude, Goldwin Smith, Spooner, Sir John Stainer and many other men of intellect, so that Margaret Furneaux was brought up in an atmosphere of culture and distinction.

The parents produced many reasons for their objection to the marriage. They told Margaret that she was far too young to know her own mind, and that as she had only just "come out" it would be better for her to wait. They argued that she had only met F. E. Smith for the first time a few weeks previously, and that it would be folly to marry so soon. F. E. Smith and Margaret Furneaux were very certain that they knew their own minds, and in a few months' time her parents gave their consent, and afterwards admired and liked their son-in-law.

F. E. had left Oxford before this and was practising at the Bar in Liverpool, but he often came down to Oxford to see Margaret. They would go for picnics on the river Cherwell, and Margaret would go home with the grievance that it "always works out that I paddle the canoe while he lies back on cushions making wonderful plans for the future." He gave great parties for her in Merton, and once took part in amateur theatricals at the Radcliffe Infirmary. He is said to have taken great liberties with the script, and indeed on the night of the play some of his shorter lines, developed into long speeches, were very disconcerting to the other players, but according to him the making of the play.

By 1901 Smith's income, added to a small annuity which Henry Furneaux was able to allow his daughter, was considered sufficient for marriage. The marriage excited great local interest. Smith's brilliant personality and record were well known in Oxford, and the Furneaux were a distinguished academic family. They were married at St. Giles' Church; it was full to overflowing with a critical congregation, in which comment was freely passed as to why the bridegroom wore a pink shirt.

A long honeymoon was impossible, for Smith's practice was beginning to expand as increasing numbers of licensing briefs fell into his lap. They went to Brighton and stayed at the Metropole Hotel, where they met Rufus Isaacs, then in his prime at the Bar. F. E. introduced Isaacs to his wife with the whispered

aside "I may say that I consider this man quite as clever as I am myself." After a few days at Brighton they returned to Birkenhead. F. E. immediately bought two hunters, and a little raleigh cart for his wife, and thus equipped they settled down to life.

It is impossible to overestimate the influence exerted by Margaret Furneaux over her husband. She brought to the union many qualities which he did not possess. She was artistic and musical, but she never succeeded in converting Smith to a love of music. It was a closed book to him. He was tone-deaf. He would rise to his feet and stand rigidly to attention when a band played John Peel or Annie Laurie. The stately movements of Beethoven, the plaintive melodies of Chopin, the delicate tracery of Debussy or Ravel, all were to him a confused and disagreeable cacophony. Secretly he admired this gift in which he himself was so curiously wanting, the power of dominion over strange and unintelligible harmonies, but he refused to admit it. He would tell with delight how his wife went to an entertainment at the Warnford Lunatic Asylum to sing songs from Schumann to its inmates; how she was half-way through "*Nüssbaum*" when, looking up from her music, she saw row upon row of lunatics sitting with ears tightly blocked up, as F. E. explained "Trying to qualify for release."

Besides these gifts she possessed a strong character, an amazing power of influencing his decisions, an exquisite sense of humour. She softened him too, and read his character with amazing prescience. She seldom stood firm in thwarting him, but she invariably gained her point. He was from first to last utterly dependent on her, and his love for her was, like his nature, steady, deep and passionate. He placed infinite reliance upon her judgment. When it went against his own he was angry, but he followed her opinion and admitted that when she intervened she was almost always right. When many years later in the House of Lords he castigated Lords Selborne and Salisbury as the "Dolly Sisters", she immediately criticised him for having given way to unnecessary and dangerous vulgarity. He flew into a passion, partly, perhaps, because he realised that she was right, but he admitted his mistake and afterwards greatly regretted his outburst. Throughout the devastating strain of the work which his combined legal and parliamentary duties imposed on him, the momentous crises and anxieties of his life, she supported, encour-

aged and guided him, and it is no exaggeration to say that her influence over him contributed as much to his success as his own natural advantages.

Partly because the responsibilities of marriage provided a new stimulant to work, and partly because he had begun to make a name for himself in licensing applications, Smith's earnings began rapidly to increase and his practice to expand. Already in 1900, the year before his marriage, there had been a marked increase in his earnings.

His earnings in 1900 were :

	£	s.	d.
January	29	8	0
February	33	12	0
March	—	—	—
April	5	5	0
May	22	1	0
June	15	15	0
July	43	1	0
August	34	13	0
September	141	15	0
October	101	17	0
November	72	9	0
December	29	8	0

In 1901, the year of his marriage, the upward curve continued. His name was becoming known in business circles in Liverpool and his political speeches began to attract attention. F. E. Smith was fortunate in his first London case. For in *Wise v. Dunning*, in which he appeared for George Wise, a well-known Protestant lecturer, before the Court of Appeal in November 19 and 20, 1901, he had a cause that excited great public interest and that also raised nice questions of law, so much so that it was reported at length.¹ Wise had been conducting what he described as an anti-Catholic crusade in Liverpool where, as he well knew, religious animosity ran high. When, in May, 1901, his street meetings had led to a violent disturbance outside St. George's Hall, the deputy chief constable, Mr. Dunning, had laid an information against Wise, and the stipendiary magistrate had ordered him to find recognizances to keep the peace for twelve months or to go to prison for two months. Wise appealed to the High

¹ [1902] 1 K.B. p. 167.

Court, where his appeal was heard by Lord Alverstone, C.J., Mr. Justice Darling (now Lord Darling), and Mr. Justice Channell.

F. E. Smith contended that the magistrate had no jurisdiction because there was no evidence that Wise had committed a breach of the peace or could be justly suspected of intending to commit one. Wise's conduct had been lawful; he could not be bound over because the conduct of others was or might be unlawful. If Wise's conduct did tend to provoke a breach of the peace by others and caused offence to persons of a different religion, there was, unless he had acted illegally, no power to restrain him. Mr. Pickford, K.C. (now Lord Justice Pickford), for the respondent, replied that there was ample evidence of Wise's illegal behaviour; he had held street meetings; he had been guilty of abusive behaviour in the streets contrary to a local statute; he had advised his Protestant followers to form an armed body-guard. But F. E. Smith retorted that no proceedings had been taken against Wise for these alleged offences. And he enunciated the attractive proposition that "A man is not in law bound to assume that the natural consequence of a lawful act which he does will be the commission of unlawful acts by others."

His pleading impressed but did not convince the Court. Lord Alverstone said that the case had been extremely well argued, but that the Liverpool stipendiary was properly justified in his decision. The Chief Justice quoted with approval the dictum of Mr. Justice Field, that "Everyone must be taken to intend the natural consequence of his own acts," and declared that in Wise's case the essential condition for requiring recognizances had been fulfilled, namely, "that there must be an act of the defendant, the natural consequences of which, if his act be not unlawful in itself, would be to produce an unlawful act by other persons." Mr. Justice Darling, in concurring, found an opportunity to quote *Hudibras* on Wise as one of

A sect whose chief devotion lies
In odd perverse antipathies.

Mr. Justice Channell, while agreeing to the rejection of the appeal, paid a considerable compliment to F. E. Smith by accepting his main proposition in a slightly altered form, namely, that the law does not as a rule regard an illegal act as being the natural consequence of a temptation that may be hard to resist, as when a shopkeeper exposes goods outside his shop and has

them stolen, or when a man forgets to fill up all the blanks on a cheque and thus gives an opportunity to a dishonest clerk. Mr. Justice Channell suggested that a breach of the peace as the natural consequence of the use of insulting language might be considered an exception to F. E. Smith's general rule. Thus the case ended with a distinct forensic success for the young Liverpool barrister. When he got back to his chambers, he found a note from Lord Alverstone himself.

Nov. 20, 1901.

DEAR MR. SMITH,—

You argued this case admirably. I predict for you a very brilliant future. I trust we shall often see you.

Faithfully yours,

ALVERSTONE.

Thus we see that from 1899 to 1901 he had been rapidly extending his practice and creating his name, but no really important litigation had come his way before the year 1902. These years were the seed time; his cases in 1902 made his name and fortune. A great deal of important but minor work was waiting for him in solicitors' offices, but it was the Goudie frauds which first focused upon him the powerful beam of popular interest. Now, for the first time, Smith was given an opportunity to reveal his powers off his circuit and in a wider arena, to absorb the tremendous publicity which is always excited by a trial at the Old Bailey, and to appear in competition with the established leaders of the London Bar.

The case itself was one of great interest. It concerned embezzlements on a gigantic scale at the expense of the Bank of Liverpool. The simple ingenuity of the scheme, and the magnitude of the frauds recall the scoundrelly Paul Benfield's exploitation of the Nabob of Arcot in the days of the East India Company.

The first phase of the affair was commonplace and sordid—a clerk defrauding a bank. Later its character altered. He fell into the clutches of blackmailers and the affair culminated in a series of fantastic embezzlements. The frauds were actually carried out in Liverpool, but they were concocted in London. Thus when the arrests came to be made, they were made in London and the trial was appointed to take place at the Old Bailey.

The accused was a clerk called Thomas Peterson Goudie, employed by the Bank of Liverpool. Facts came to light on November 21, 1901, which showed beyond doubt that there had been extensive malversation of the bank's funds, involving it in enormous losses. It was found that Goudie was the clerk in charge of the ledgers in which the accounts were written. When he was asked for an explanation, he collapsed and at once admitted that he had committed frauds on the bank to the extent of £160,000. He was asked to fetch the books in which the accounts were written, and, when he had left the room, took the opportunity to escape. For days he lay low, eluding all search, then he was discovered destitute and penniless, skulking in an obscure hiding-place in Liverpool. He, at least, showed no signs of having profited by his dishonesty. He was questioned and gave away three names which caused the arrest of three men who had sucked him dry by a process of intensive blackmail.

Goudie's character had never before been suspected. He had appeared to be a typical product of the counting house, steady, industrious and prosaic. He was twenty-nine years of age, was born in Shetland and had been decently educated. He was paid £3 per week by the bank and lived a life of the utmost frugality. But he had, for some years, been secretly losing large sums of money on the Turf. At first he was content to wager small sums up to £1. Sometimes he won and so the scale of his speculations increased. In a lucky week he won £800, but more often he lost. He was unable to pay his bookmakers. In 1898 it was imperative that he should find £100. He forged a cheque successfully, and was not discovered, but to make up for the deficit he recommenced betting, and again lost heavily. He found the necessary money in the same way as before.

The way in which Goudie removed these large sums of money without being exposed by the constant auditing of the bank's funds was simple and ingenious. Goudie was in charge of the ledgers containing the accounts of clients whose surnames began with the letter H to K. Amongst these was a large account in the name of Mr. Hudson of Hudson's soap. An entry was made in a journal when a cheque was paid; the journal was taken to the ledger clerk who marked it, took the cheque, and made the entries in the ledger.

Goudie's first business was to provide himself with blank

cheques on the bank; this he did by opening an account with it in the ordinary way. He then utilised a natural facility for forging by imitating Mr. Hudson's name upon a cheque and presenting it. The cheque was paid. In due course the cheque and the journal reached Goudie. He tore up the cheque, marked the journal as though the ledger had been posted, but made no mark in the ledger in which Mr. Hudson's payments and drawings were always entered. Any unexpected checking or examination of the items would have been disastrous to Goudie's scheme. He never made any provision for this emergency. But he was able to forestall the weekly sheet and the recurrent audit by an elaborate system of false entries, which were made easier for him by the fact that it was his duty to assist the auditors.

Then Goudie fell into the hands of blackmailers, and an element of melancholy farce crept into the proceedings, for this ingenious forger, who could rob a bank of £160,000, was so supple a foil in the hands of others that he was soon destitute himself. He had attended the October Meeting at Newmarket in 1900. On his way back to London he fell in with two of the dregs of the racing world, named Kelly and Stiles. These men, playing on his gullibility, persuaded him that one of them was a high-class book-maker and the other a wealthy professional backer; they discovered his secret and involved him deeper and deeper in the mire by forcing him to make large bets, which he was never allowed to win, and by threatening him with exposure to the Bank, as clerks were, of course, not allowed to bet. So the wretched Goudie was forced to make further inroads on the funds of the Bank. Soon the sudden accession of wealth on the part of Kelly and Stiles attracted the curiosity of three other racecourse touts, named Burge, book-maker and ex-boxer, Mancus, and Markes, and by October, 1901, this second ring of blackmailers were applying the screw to Goudie.

Burge sent Mancus down to Liverpool to waylay Goudie at the address where he received letters, and to coerce him by threats into becoming an accomplice of the gang. Goudie was told that Mancus represented a wealthy commission agent named Markes with whom it would be well to deal. Goudie, now thoroughly frightened by exposure, accepted Mancus's assurance that Markes could arrange bets of many thousands of pounds within an hour before the race. He proceeded to bet by telegram with Markes to such an extent that in the first week he was

said to have lost £25,000. The next week's loss was £30,000, and the third week's £31,000. By some strange mischance Goudie was suddenly allowed to back a winner, but he was soon told that the bet had not been laid. Thus within three weeks nearly £90,000 was stolen from the Bank to satisfy those bloodsuckers. Defalcations on such an enormous scale could not be kept hid for long, and on October 21, 1901, the discovery was made. Mances and Markes escaped, and were never brought to trial; but Goudie, Kelly, Stiles and Burge were arrested and their trial fixed for February 7, 1902.

The trial took place in the Old Bailey. Mr. Justice Bigham (afterwards Lord Mersey and President of the Divorce Court) was the judge. Famous counsel appeared on both sides. For the Bank, Mr. Gill, K.C., led Mr. Charles Mathews and Mr. Graham Campbell. Kelly was defended by Mr. Rufus Isaacs, K.C. (afterwards Lord Chief Justice of England and Viceroy of India), and by Mr. Lambert; Mr. Marshall Hall, K.C., and Mr. Moyses defended Stiles. Burge retained Mr. Avory, K.C. (later Mr. Justice Avory), and Mr. Biron (later Sir Chartres Biron and Chief Magistrate of London). F. E. Smith led Mr. Hemmerde in defence of Goudie.

There were a large number of charges against Goudie. Individually he was charged with all those upon which the prosecution had decided to base its case. He was also charged with Kelly and Stiles with the forgeries which concerned them, and with Burge for the group of offences which concerned them both.

Goudie had no conceivable case in his favour. The evidence against him was devastating and he had admitted his guilt. He therefore pleaded guilty. Gill, prosecuting, decided to put him in the box as a witness against the other three men. The wretched and shattered Goudie was then cross-examined by Mr. Avory, but he remained firm, and Avory was unable to save his client.

The most curious part of the proceedings was the miserable share which Goudie himself collected in the spoils. It was maintained by the prosecution that of the total of £91,000 of which the Bank had been defrauded, Burge had received £38,000, Mances £36,750, Marks £15,000; thus £750 was the beggarly share which went to the catspaw Goudie.

The way in which Burge's trial had gone made it clear to Marshall Hall and Isaacs that Goudie's evidence was unshakeable

and that their clients' case was as hopeless as his own. The two counsel therefore withdrew their pleas. Kelly and Stiles admitted their guilt and were sentenced.

F. E. Smith could do nothing more for Goudie than to plead for the mitigation of his sentence. The final stages of the trial, which had begun on the 17th, were reached on Saturday, October 22. There was clearly little to be done. Before the wretched man had fallen into the clutches of blackmailers he had defrauded his employers. Since then, spurred on by their mad avarice, he had caused grave injury to the Bank. No small sentence was conceivable. It was difficult to frame any defence for him except to say that he was, during the period in which the forgeries were perpetrated, the dupe of merciless blood-suckers, and that without their pressure he would have been a common type of criminal—a dishonest clerk. Smith's opportunity had come.

In a speech of extraordinary power and eloquence, he urged upon the jury all the factors which told in the wretched man's favour, and which might justify a reduction in his sentence. He stressed Goudie's former good character, the frugality of his life and the credulity of his nature, his readiness to offer full confession of his guilt and to make such amends as were possible. He urged that after the initial forgery he had gone on betting in the hope of being able to replace the stolen money. He had never spent a farthing on personal luxuries. He had not attempted seriously to escape. He drew a moving picture of Goudie, who was, after all, a poignant figure—this weakling who had been the almost passive instrument of vast frauds, and the feeble tool of unscrupulous men.

Goudie the forger seemed to vanish from the room, and in his stead, by a Jekyllsque transformation, there appeared a broken figure, which appealed at once to the softer instincts of the court. There was a melting ring in Smith's voice as he pictured the prisoner's three sisters sacrificing everything to give him legal aid, and told of their sanguine belief in his character.

In this speech he ran through every weapon in his arsenal of speech. At one moment he was the logical and incisive pleader, the next painting with vivid brush the unutterable folly and fallen estate of the prisoner. He sat down amid loud applause. Sir Richard Muir passed him a note saying "You will be the master of us all. No one I have ever heard

has impressed me so in a hopeless case." A member of the Old Bailey Bar who had come to see the final stages of the trial remarked to Smith that unless the Bar did away with him, it was all up with them, for he would get their work.

Although he had resolved to make an example of the prisoners, Mr. Justice Bigham was not unmoved. It is said that he reduced an intended sentence of fifteen years to one of ten years, but in any case Goudie did not survive to reap the benefit of this clemency, for he died in prison in the sixth year of his sentence. Judgment concluded thus:—

"You have for many years practised a cunning and wicked fraud, and I have no reason to suppose that if you had not been detected at last that you would not have continued to practise the same frauds. You have not the ordinary excuse, that so many criminals have, that necessity drove you to crime. There was no necessity, and your case in my opinion is aggravated by the fact that you were a man of intelligence, trusted by the bank which afforded you the means of livelihood. You used that intelligence for the purpose of cheating the people from whom you were receiving your daily bread. I don't know in your case whether to marvel more at the wickedness of your folly, or the folly of your wickedness, for the money which you obtained from the bank you appear to have squandered in the most reckless manner. I remember that apparently you benefited personally very little by it. That fact weighs very little with me. You obtained from the bank no less than £160,000, a gigantic sum, and if this bank had not been rich beyond most institutions you might have brought many of the shareholders connected with it to absolute ruin. I see no excuse for you, no palliation. Yours was the hand that set the whole of this fraud in motion, and I must give you exemplary punishment. You must go to penal servitude for ten years."

The other defendant, Burge, received the same sentence; the big boxer broke down in tears. He was, incidentally, a brother-in-law of the famous comedienne, Marie Lloyd, whose sister he had married shortly before his arrest. But Burge's sentence was reduced by three years, and he was released in 1909 (August) from Portland, after an exemplary record of good conduct in prison, and after having saved a warder's life by showing conspicuous gallantry. He returned to the ring after his release, and served in the Boxers' Battalion during the War.

Smith could look back on this case with the greatest satisfaction. He had competed with famous "silks" and his, not theirs, was the speech on every one's lips. It is a mistake,

however, to suppose that he made his name in the Goudie case, for his persuasive pleading in London had, as we have seen, already attracted the notice of Lord Alverstone, and he was well known in the North of England.

THE BOOTLE MURDER

In the autumn of 1902 he was engaged in another sensational case: this was the murder in Liverpool of Miss Eliza Marsden, a wealthy old woman of intemperate habits, by two young servant girls, Ethel Rollinson and Eva Eastwood, aged twenty and seventeen respectively. On the evening of October 8, Miss Marsden was escorted home drunk to her house in Bootle and left with her maid, Eliza Hamilton, whom she had engaged that morning. Hamilton put her mistress to bed, and then went downstairs, where she found Rollinson and Eastwood in the pantry. Hamilton went upstairs to her own bedroom and went to bed. A little later, Rollinson and Eastwood came up to her room and told her that Miss Marsden was an old "rip" with whom she ought not to stay. Afterwards, they went down to Miss Marsden's room, and Hamilton heard moans, and one of the girls saying: "Shut up!" Hamilton got up and dressed and went down to her mistress's room, where the girls were standing. She went out for a moment for some reason and returned to find Eastwood sitting on the top of the bed, on pillows which were suffocating the old woman. Hamilton accepted a bundle of clothes from one of the girls, and then they all left the house. When they were outside, Rollinson and Eastwood told Hamilton that they had put the pillows on Miss Marsden, as they had a grudge against her. Hamilton then went home and told her brother what had happened. She was taken into custody, and Rollinson and Eastwood were arrested six weeks later. Rollinson had pawned a gold watch belonging to Miss Marsden. When arrested, she said: "The old woman starved me while I was with her. I said I would do it and I've done it. Eliza Hamilton helped, she can't say she didn't." Eastwood said: "I helped to do it," but added, pointing to Rollinson, "It's only between 'us two."

Mr. Justice Jelf approached F. E. Smith to defend Rollinson, and Mr. Guy Rutledge to defend Eastwood, since the girls were friendless and destitute.

F. E., who abandoned an important libel case in order to

defend Rollinson at the Liverpool Assizes on December 12, had another impossible task. Counsel for Eastwood urged that if the case against Hamilton was withdrawn and she was accepted as a Crown witness, a similar favour should be shown to Eastwood. This plea failed, and Mr. Justice Jelf refused to draw any distinction between Rollinson and Eastwood. F. E. Smith fought the hopeless battle, first by a long cross-examination, from which nothing of advantage to his client emerged. He had to stake all on the final speech for the defence. He made a long and melting appeal in a cause almost as foregone as that of Goudie himself. He reminded the jury that the girls would have had no help, but for the judge; that the defence was hampered by being obliged to act at short notice, whereas the prosecution was fully prepared. He reminded the jury, too, that it was for the prosecution to prove guilt, and it was not for the defence to disprove it. He dwelt on the miserable position of the two girls, how in their wretched poverty they could not even find the small fee for an attorney; that they had no one to advise or help them. Let the jury, he said, remember their position. They were orphans—(as a matter of fact they were not, and Rollinson and her mother were afterwards together under the same prison roof)—they had no friends. They had been set adrift in the great unfriendly port of Liverpool, without money and with their own living to make. Their previous characters were impeccable; they had not succumbed, as frailer vessels might have succumbed, to the swifter methods by which women can keep body and soul together. During this period the police could not fasten one discreditable incident upon the two girls. Of course, they had stolen some of the old woman's property. If the two girls had gone to Miss Marsden's house with murderous intention, and were capable, as the prosecution alleged, of so cold-blooded a murder, it was scarcely conceivable that they would leave behind the most damaging evidence, the pillows with which they had smothered the old woman. If the jury concluded that the pillows had been placed upon the old woman's head, he asked them to believe that they were not placed there with the intent to kill, and he urged in forcible words that there was just that element of doubt in the case which would mean that a very grave responsibility would lie upon the jury that found the two girls guilty.

The jury, however, found the two girls guilty of murder

with a strong recommendation to mercy on account of their age and sex. They were sentenced to death. Then began an avalanche of those hysterical appeals for mercy by the English lower classes who are so fond of showing their sympathy with convicted murderers. Petition after petition, signature after signature appeared, and on Christmas Eve it was announced from the Home Office that both girls would be reprieved and sent to penal servitude for life. F. E. had conducted another hopeless case with skill and force.

Mr. Justice Jelf was impressed with F. E. Smith's defence in this case. He wrote to congratulate him from the Judges Lodgings.

JUDGES LODGINGS,
Sunday,
 Dec. 14, 1902.

MY DEAR F. E. SMITH,—

I must send you a few lines to thank you heartily for your admirable defence of Ethel Rollinson. I never heard a hopeless case more brilliantly defended. I shall watch your future career with the deepest interest, and I feel no doubt that you will be one of the leaders of your great circuit.

Yours very truly,
 ARTHUR R. JELF.

It brought him experience and *réclame*, and by the time he heard that his pleadings had not been altogether unsuccessful, he was involved in the Ogden Guinea Gold Litigation.

F. E. Smith had meanwhile, in August, made another important connection. He was junior counsel with Mr. Horridge, K.C., leading him, in an action brought by Lever Brothers, Limited, against the English and American Shipping Company, at the Liverpool Assizes on August 2, 1902. Messrs. Lever Brothers claimed damages for cotton seed shipped by the defendants' ship *Malta*, and stowed, improperly, as they claimed, in the forepeak of the vessel. The judge, Mr. Justice Wills, declared that the evidence was conflicting, and that a special jury must decide whether or not it was safe to stow cotton seed on the forepeak of a ship. The jury found for the plaintiffs to the amount claimed. Thus, F. E. Smith's connection with the great soap-makers was begun, and was later to lead to far more important cases.

VIII

GUINEA GOLD, AND THE "VERONICA" MURDERS (1902-05)

BY this time, F. E. Smith was grappling with the great case of Ogdens. He was first retained in 1902 by Mr. Joseph Hood, liquidator of Ogdens Ltd. When the litigation was over in 1906, he was a Member of Parliament, a barrister in London with a brilliant name and a great practice, and fees in his pocket to the extent of £20,000. After only four years from the time when he was first called to the Bar, he was engaged in heavy litigation and was retained in a series of extraordinary actions all springing from the same source. Besides the financial gains which this case brought to him it brought to him also a store of invaluable experience both of procedure and practice. The cases came before the Courts more than twelve hundred times. The hearing in the House of Lords spread over four, and in the Court of Appeal twelve, days.

Ogden's "Guinea Gold" is now a forgotten name, but during the years of litigation it flashed into a hectic and artificial renown as a very cheap Virginian cigarette. The litigation was born out of a desperate struggle in the tobacco industry for supremacy between an American combine which acquired a controlling interest in Ogdens Ltd. of Liverpool, and the Imperial Tobacco Company of England, which was a gigantic merger rapidly created to stand the strain of a price-cutting war.

At the time when this case opened, competition in the trade was exceptionally keen among the manufacturers to obtain the custom of the retailers. The great war was started by the attempt of an American combine to oust British manufacturers from the field, and by a process of ruinous underselling to establish a monopoly in the industry. The Americans began by acquiring a controlling interest in Ogdens Ltd. of Liverpool. This was a well-known local firm, who had recently been enjoying a great

success with their Guinea Gold cigarettes. These cigarettes, which had been widely advertised, began to find a market all over England, and thus greatly to intensify the competition already existing in the trade. After the American combine had acquired their controlling interest in Ogdens, the price-cutting began, the open object of which was to drive all competitors out of the market.

The conception was simple, and the device is well known in every trade, particularly in America, that of underselling goods during periods of acute competition at a great loss, and of forcing all competitors to lower their prices in response. It is, of course, a war of attrition, with disastrous results in store for the firm whose resources are the first to fail. The firm which survives relies on defraying the expenses of the war by the complete freedom to raise prices which their monopoly will confer on them. In England the challenge caused an immediate flutter of anxiety in the tobacco world, and produced the fusion of the greater number of English manufacturers into the Imperial Tobacco Company, which took resolute steps to oppose this menace to its business. The rivals began a violent competition for the custom of the retailers. Tobacco was almost given away, but this was not enough to win the favour of the retailers, for the public only requires a limited amount of tobacco, and the retailers' profits are not materially increased by mere cheapness. An intensive price-cutting war may indeed produce an adverse effect upon them. Both rivals were, therefore, driven into direct precautionary overtures to the retailers.

The Imperial Tobacco Company was the first in the field with an offer of a share in its profits, and a bonus of £50,000 to those retailers who were prepared to bind themselves by contract to deal with it only. The American combine were quick to retort. They sent urgent messages to the retailers advising them to postpone a decision until they had read Ogden's circular. Great numbers of retailers accordingly waited, and were soon rewarded by the following circular :

BONUS DISTRIBUTION

Our entire net profits and £200,000 per year for the next four years :—

“Commencing 2 April 1902, we will, for the next four years, distribute to such of our customers in the United Kingdom, as purchase

direct from us our entire net profits on the goods sold by us in the United Kingdom.

"In addition to the above, we will, commencing 2 April 1902, for the next four years, distribute to such of our customers in the United Kingdom as purchase direct from us, the sum of £200,000 per year."

The distribution of the bonus was to be graded according to the amount purchased by each customer. There was another cleverly worded clause which provided that in accepting the circular the retailers were not bound to boycott the goods of any other manufacturer. This was, of course, directly inspired by the fact that the offer of the Imperial Tobacco Company bound retailers hand and foot, and if that company with their help were to emerge victorious from the battle the retailers saw themselves held in thraldom. Their main object was, of course, to maintain the competition by coquetting with each rival in return. Thus many retailers rejected the offer of the Imperial Tobacco Company and accepted Ogden's offer, and hostilities were resumed and competition continued more embittered than ever.

The retailers had, however, miscalculated, for although they received the first payment of £50,000 for the first quarter of 1902, of the total of £800,000 promised by the Ogden scheme, the payment suddenly ceased in October. The war was at an end: the Americans had abandoned the field, realising that they had under-estimated the power of resistance in the English manufacturers: they saw too, that they were unlikely to meet with an ultimate success, and that they would be better employed in combating foreign competition in the United States than in striking out new lines of aggression abroad. By September an accommodation had been reached, and the Americans had returned to their country!

The Ogden company was, by the terms of this accommodation, to be transferred to the Imperial Tobacco Company, and in October Ogdens was put into voluntary liquidation.

Here was the question upon which the subsequent litigation arose. Did this liquidation cancel the retailers' rights under the circular, or not? It was, at first, thought that the liquidation had put an end to the retailers' rights, for up to September no profits had been recorded, and in future the company would have no business dealings with anyone. The retailers, on the other hand, claimed, when they were asked to discharge their

debts to the company, that it was liable to them for damages for breach of contract which would greatly exceed their debts, and that they were, in fact, the creditors of the company. The retailers found themselves in an unenviable position: from having been the balancing stone between the two rivals, they saw themselves now condemned to deal exclusively either with the great combine, or with the few manufacturers who had remained outside its pale. Thus the multiplicity of the litigation arose, as each separate claim led to a separate action against Ogdens. Ogdens considered that they were entitled to go out of business whenever they chose, and drew attention to phrases in their circular which ruled that actual dealing was necessary for distribution and that, without that dealing, any form of division was impossible. The retailers replied that the circular had laid down a hard and fast contract for four years, and that the fact that Ogdens could not discharge the obligations of that contract entitled the retailers to substantial damages.

The first two cases were attempts to recover debts said to be due to the company from two retailers, Nelson and Telford. Nelson's case was characteristic of the whole affair. He owed Ogdens £58, but refused to discharge the debt on the grounds that the damages due to him exceeded the amount of the debt. The action came before Lord Alverstone, the Lord Chief Justice, in 1903. What true meaning did the contract carry? That was the question. Did the contract bind the company to remain in business for four years so that profits and bonuses could be allotted according to the provisions of the circular? The decision went against the company after much erudite enquiry, much citing of precedents and authorities; the Chief Justice ruled that the company was, in this instance, entitled to discontinue business, but with the obligation that they must compensate the retailers for the loss incurred. But there was further material for action on the question of damages. On this Lord Alverstone decided that there was little prospect of the company earning profits during the four years of struggle, and Nelson's claim to a share in profits was dismissed. He was awarded £70 damages on the claim that the company had failed to pay him his stipulated share of the £800,000. Nelson did not deny that he owed the company £58, and thus found himself creditor of the company to the extent of £12. Thus, by the judge's ruling, any retailer could default in his payment to the company,

with the knowledge that the damages awarded would produce a balance in his favour.

The retailers then formed themselves into an association to reinforce their claims and an avalanche of writs began to descend on the company. In many of these cases F. E. Smith was concerned. £700,000 worth of damages were claimed; nearly eight hundred actions were fought. Smith was amazed at the multiplicity of the cases and the variety of defences which he found it necessary to construct. The decisions obtained by Nelson and Telford were, meanwhile, sharply contested. The Court of Appeal in 1904 dismissed the appeals which were considered by the Master of the Rolls, Sir H. Henn Collins, and Lord Justices Romer and Mathews. They next passed to the House of Lords, where they were heard in March 1905. Mr. Asquith and Mr. Isaacs led Mr. Hemmerde and F. E. Smith for the company: Mr. Bankes led Mr. Randolph for the retailers. The judgments were once again sustained, and the retailers' interpretation of the contract was upheld. There still remained the facts in each case which it was necessary to determine—whether the retailer had, in fact, any claim on the company, and secondly what damages he should receive to satisfy that claim.

After a while the retailers ceased to press their actions, and began to jettison their expectations of vast profits. The costs which they had to bear were extremely heavy, and since the Ogden company was being liquidated the retailers could only obtain damages out of the assets of the company, which were first subject to the liquidators' charges. Thus the expenses of the litigation fell on the retailers, who saw the vast numbers of actions coming on for trial, and realised that the assets might very possibly be exhausted, before favourable judgments could be given them.

The Imperial Tobacco Company, on the other hand, had for some time viewed with alarm the growing bitterness between manufacturers and retailers, and realised that a *rapprochement* was vital before normal business relations could be resumed. To the negotiations which were to bring about a reconciliation Smith devoted much time and thought, and gained invaluable experience. On September 19, 1906 an amicable agreement was reached.

All those who had engaged in the litigation were presented by the chairman with a souvenir containing portraits of the judges and counsel, which still hangs in Smith's old chambers.

The litigation had spread over four years, had brought Smith £20,000 in fees, and given him a tremendous forward impetus in his profession, which justified him, shortly afterwards, in taking silk.

Throughout 1903 Smith devoted his leisure mainly to horses; he and his wife hunted regularly with the Wirral Harriers and Cheshire Hounds. On April 4 he rode in his first point-to-point on his own horse, a raw-boned chestnut hunter called McDermott, which he rode in the Bar Heavyweight class. He had two very bad falls, broke a rib and blacked an eye, and the race was carried off by a septuagenarian jockey called Phillpots. All the time he was freely adding to his stable. He and Mrs. Smith went for a riding tour in North Wales, starting from Birkenhead and passing through the snow-covered heights of Snowdon, in which Llewellyn lurked long ago while Edward I blockaded him into miserable surrender.

Next month they bought the Grove near Hooton, a comfortable house with a pleasant long library, and lawns looking down upon a stately sheet of artificial water, and tennis courts upon which the tired barristers from F. E.'s chambers sought to expel the accumulated cobwebs of the courts. There were forty acres of paddocks and stabling for eighteen horses: at one time there were sixteen horses in his stables, and they were all regularly used.

KENSIT MURDER CASE

Interspersed with prosaic and important civil litigation such as Ogdens Guinea Gold, were such criminal cases as the Kensit Murder, and the *Veronica* Murders at the Liverpool Assizes in 1902. F. E. Smith was briefed for the Crown as junior to Pickford, K.C., in the sensational Kensit Murder Case, a case arising from the death of the extreme Protestant agitator John Kensit. Kensit's son had stirred up a riot in Liverpool in September, and had been sent to gaol. The father went to Liverpool to address a series of meetings in the son's place. He was returning on September 25 from a Birkenhead meeting, when he was waylaid by a hostile Roman Catholic crowd. Kensit got down from the tram near Woodside Ferry, and was struck by a steel chisel, thrown by some young rough in the crowd, and severely hurt in the forehead. So he was taken to the ferry and thence to the Liverpool Royal Infirmary, where he developed pneumonia and died on October 8. The

Birkenhead police arrested a boy of nineteen, called McKeeven, and after the inquest committed him to the Liverpool Assizes on a charge of wilful murder.

It is said that the Town Clerk of Liverpool wanted to save the city expense by having the case transferred to the Chester Assizes—since the assault had been made in Cheshire, and he persuaded the legal authorities to take his view. Smith was annoyed to hear of the proposed change, for he wanted the case to be heard in Liverpool. He was told of the change the day before the trial, when he was engaged in court. As soon as the court rose he hurried to Lime Street and took train for London where he saw the Public Prosecutor at his private house, and persuaded him to change his mind about the proper venue of the case. He then caught the midnight train back to Liverpool. When he went into court next morning (December 8) the Town Clerk asked him in some surprise why he had come, and was flabbergasted when Smith told him that he had come for the Kensit case.

Mr. Pickford, K.C., afterwards Lord Justice, took care to state at the outset that the Crown had chosen Liverpool as the venue in fairness to the prisoner—the Chester Assizes were a long way off—and to avoid the insinuation that the man would not be given a fair trial in Liverpool.

The case proceeded as Smith planned, but it was a difficult case in which to secure a conviction, for the prosecution had to prove, first that the wound had contributed to Kensit's death, and secondly that out of the various desperadoes in the crowd by the Woodside landing-stage on the September evening, McKeeven was the one who threw the chisel. The doctors disagreed about the medical evidence, and the evidence of identity was conflicting and unsatisfactory. Many of the riff-raff of the crowd gave evidence, and great excitement reigned in Liverpool and in the court at St. George's Hall. Finally, on the fourth day of the trial, December 11, 1902, after a long and cautious summing up by Mr. Justice Jelf, in which he noted that the prisoner had not been put into the box, the jury returned a verdict of "Not Guilty." The Crown had lost the case, and "the first Protestant martyr of the twentieth century", as Kensit was seriously called by his admirers, was left unavenged by blood. But the part played by Smith in the case, the skill and patience with which he sifted the intricate and conflicting

evidence, and the force of his cross-examination brought him very favourable notice in a case which we now see to have been predestined to failure. The steel chisel was sent to join the collection of grim relics in Smith's chambers.

THE "VERONICA" MURDERS

On May 12, 1903, F. E. Smith was engaged in the astonishing case of the *Veronica* murders. It takes the reader's mind back to the past when the buccaneers scoured the blue waters of the Spanish Main, swooping upon rich merchantmen, or to the day when Kidd kicked his last at Execution Dock. We live for a fugitive moment in those troubled days, and it is as if the tarpaulin of civilisation was lifted from this era of turbinéd vessels and whirring machinery. One realises, reading of these murders, the terrible effect which close confinement may produce upon brooding minds, when the most trivial slight swells into passion, and the merest irritation breeds murder.

On October 11, 1902, an English brigantine of 1,000 tons sailed from the Gulf of Mexico bound with a cargo of timber for Monte Video. There were twelve men on board the *Veronica*—the master, the first and second mates, eight men before the mast and a black cook. Alexander Shaw, the master, was an elderly inoffensive man, slightly deaf and short-sighted. This was not his first command on the *Veronica*; he and his two officers had served together on her before, on several voyages. Two of the men had sailed on her before, two young Germans, Morrisson and Flohr. The condition of the *Veronica* was good; she was stable, a good sea-boat and heavy with cargo, and properly provisioned: she could have safely ridden the most violent storm.

The *Veronica* disappeared, and was never seen again by man. On Christmas Day one of her life-boats struggled into Cajueira Island, manned by five distressed men. This island, with its wharf, lies off the steaming Paranyhyba River in South America. Smith, Morrisson, Flohr, Rau and the cook were the five men. The boat was without compass or any navigating instruments, and there were no signs of provisions.

The men stayed on the island until the steamship *Brunswick* arrived a few days later. Rau, who by common consent acted as spokesman of the five sailors, told her captain a melancholy

and plausible story of the disaster of the *Veronica*. He claimed that the captain had appointed him second officer, that one of the crew had died of fever, that the chief mate had been killed in an accident, and that Rau's appointment as second officer was to fill this post. Continuing his story, Rau said that on December 20, while he was below, there was an alarm of fire, followed by a terrible panic: he and his companions had rushed on deck, where the captain had shouted to them to get into a life-boat: the two boats were lowered into the water, but such was the confusion that they became separated and Rau's boat crew lost sight of the master's boat in the smoke and din. Rau dwelt on the horror of the moment and the frantic instinct of self-preservation which made him forget to provision the boat or place any navigating instruments inside it. All they had to eat was eleven biscuits and a keg of water.

There appeared no reason to dispute the story; all the men told it in precisely the same way, and it appeared to be a typical recital of marine disaster. There was one peculiar circumstance; was it not unusual for the master and first officer to get off in the same boat, leaving only a promoted seaman in charge of the other? The *Brunswick* was bound for Liverpool, and the five men were given berths on her. She made her way slowly home, dropping anchor in the sun-kissed port of Funchal, touching Lisbon and Oporto.

Rau, who was treated as an officer, was berthed aft; the others were accommodated in the fo'c'sle. The negro cook was much agitated, and asked to be separated from his companions; then he asked for an interview with the master, and under the stress of great emotion he proceeded to tell an entirely different story. His story was that the other seven men were not missing, but had been murdered, that the *Veronica* had not caught fire, but had been deliberately set on fire to cover all traces of the crime. The master gave orders that Rau, Flohr, Morrisson and Smith should be carefully watched, and when the ship berthed at Liverpool they told an entirely different story; that the seven men had indeed been murdered, but that it was the negro cook who had throughout inspired and directed the mutiny. This story had clearly been arranged between the four men to meet the new situation caused by the cook's disclosures, but Flohr's nerve collapsed and he confessed the truth.

All the men were charged with murder and piracy on the high seas ; and were tried at the Liverpool Assizes in 1903. Mr. Alfred Tobin and F. E. Smith appeared for the Crown ; only one of the charges, that of murdering the captain, was heard, but the whole brutal and senseless crime was revealed. Its brutality was enhanced by the scale on which the murders were committed ; seven men were killed in cold blood ! Its senselessness lay in the fact that there was no single cogent reason to justify any one of the murders.

Rau, according to one of the others, had made up his mind to desert before sailing. He was a volatile, cruel and boastful character, who plumed himself monstrosly upon his navigation, which he had learned in the German Navy. The men did not even trouble to concoct a tangible grievance. They spoke vaguely of the captain's abruptness, and the badness of the food, but the cook strongly denied both charges. Flohr said that he had been struck by both mates, and that the cook refused to keep the lamps clean. These were the sole causes of any disaffection on board the *Veronica*, and we can sympathise with the master, who, when pleading on his knees for mercy from Rau, is reported to have said pathetically that he had thought that "everything was going well".

One day Rau came up to Flohr and Morrisson who were talking together on deck, and said that they would soon be overboard, for he had heard the two officers planning to murder them. He proposed to throw the mates over first, and he said that Smith and Morrisson agreed. Flohr, who seems to have been a weak-minded coward, first broke down and wept, but afterwards seeing the terrible danger in which he was placed agreed to join the mutiny. The ship drifted lazily through calm waters, and they matured their scheme. The first Sunday in December was fixed for this insensate and bloody mutiny. At twelve o'clock midnight, the first mate's watch was on duty ; Smith and Flohr were both members of it ; at two o'clock in the morning the seaman, Paddy, was up on the look-out, another man Johanssen at the helm. Rau went up to the look-out and asked Paddy where the Pole Star was, and if he could see it. Paddy stooped and turned the better to see the heavens, and Rau struck him over the head with a belaying pin. Paddy fell to the deck half dead and Rau dragged him away and stowed him in a locker in the fo'c'sle.

Suddenly the chief mate came forward, and asked where Paddy was. It was pitch dark. Rau said casually that he was nearby and had been fighting; the mate brushed against Rau in the dark, Rau lashed at the mate with the belaying pin, but he missed his aim and hit Smith who dropped his pistol on the deck with a clatter and a curse. Rau was as cool as ice in the emergency: "Is that Paddy again?" he asked, then he made sure of his aim and struck the mate a sickening blow on the head. They took his body and swung it over the rail. Then he rushed aft with Smith and the others heard shouting; the cook, awakened by the din, heard a man run by his door panting out "Oh, captain, I'm shot." Rau came to the negro's door and rattled on the handle shouting: "I've killed the captain, the chief officer and the second officer; come out, you black son of a bitch!" The cook barricaded his door in a frenzy of terror and remained shivering in his cabin till morning while he listened at intervals to the curses and threats of Rau.

Johanssen was still at the wheel. Flohr crept up to him to finish him off, as Rau had ordered; Johanssen saw him, let go of the wheel and ran to Rau and begged him abjectly for mercy. All this time the captain appears to have been almost unaware of any disturbance, and he was seen by Flohr gazing unconcernedly at the topsails. It is scarcely conceivable that he deliberately ignored his duty as master through fear, and it is more likely that his deafness prevented him realising what was happening. Rau shot him, and the captain fell on his hands and knees and crawled in agony to his cabin leaving a trail of blood. Rau locked him in. Meanwhile, Julius, another of the loyal hands, had been brained by Morrisson as he tried to climb out of the fo'c'sle window, and then thrown overboard, while Paddy was murdered by Rau as he was giving him a glass of water. The mutineers made their fatal mistake; the cook came out and begged for his life and they spared him.

They then formed a council to decide on their next move; all the cabins were locked and the negro was set on to caulk a life-boat. Navigating instruments were procured from the captain in return for a glass of water. He had been barricaded in his cabin all night and was bleeding and in agony.

The course of the *Veronica* was meanwhile changed to south-west and she was heading directly for South America. All this time the life-boat was being prepared. They decided to destroy

the *Veronica* by fire in mid-ocean, so that all traces of their crime might be for ever buried in the sea, and to finish off the two wretches who were lying wounded in their cabins. When the second mate was called up he read death in his captors' eyes, and sprang over the side; the mutineers riddled him with bullets as he tried with desperate but feeble strokes to swim out of range. The captain was routed out of his cabin and Rau instantly shot him dead.

But their plan was at this point frustrated by a macabre difficulty. The survivors, under the direction of Rau, invented and agreed upon their story. It remained to learn it, and to see that each man was word-perfect and unfaltering in what they had agreed to say. The rehearsals began, all mastered the story without difficulty except Johanssen and Alec; both were elderly men, one a Swede and the other an Eurasian. They could not learn their lesson. With rising anger Rau tried to hammer the simple story into their bovine brains; for days this ghastly saying lesson was repeated, but with no better results. They had gone too far now to draw back, and Smith shot Johanssen. He was the sixth victim. For a few days they continued to instruct Alec, and we may imagine the horror with which he concentrated his feeble mind upon the lesson. One day he behaved clumsily while handling some sail and slightly injured Smith who was standing by. Rau ordered his execution and he was thrown overboard: seventh and last of the victims.

Then the mutineers got into the life-boat which had been prepared and Rau set the *Veronica* ablaze and they pulled away from her and saw the flames leaping to heaven from that shell of sinister memories.

When they sighted land they began to grow frightened; the compass went overboard, followed by the food and the weapons, and the destitute boatload could safely land at the wharf at Cajueira, after a voyage of such diabolical wickedness as is rare even in the annals of piracy.

There was little to be said in favour of the prisoners. The defence challenged the story that had been told, and tried to fasten all blame on to the cook. F. E. Smith and Mr. Tobin conducted the case for the Crown with merciless skill, and the jury without hesitation found the men guilty of murdering their captain, without any motive that could be found, and

they were sentenced to death, and executed. The negro cook gave Smith a wooden model of the *Veronica*, which he had made, and which joined the other trophies of sinister cases which remained in his chambers.

THE SUCCESSFUL ADVOCATE (1906-11)

F. E. SMITH, as we shall see, was returned to Parliament in 1906. This meant the transference of his legal work from Liverpool to London, where his career as a barrister was greatly advanced by the position he had established as a parliamentarian. He took chambers at 4 Elm Court in the Temple, and was soon immersed in a very varied series of cases. He was often in the county courts pleading in cases involving claims for damages arising from accidents and questions of workmen's compensation. These cases were usually remunerative, and his clients were often important industrial concerns or transport companies. Mingled with these cases in the county court, we shall find *causes célèbres* which echoed over the country, such as the Lever soap case, the Marconi scandals, and the trial of Crippen's mistress, Ethel Le Neve. He was quickly establishing one of the finest practices of his day at the Bar.

The nature of his success may be measured by the speed of his rise. Called in June 1899, he took Silk in February 1908, after slightly more than eight and a half years at the junior Bar. He was the youngest King's Counsel in the country, and continued to be for some years. On this occasion Smith went to see Lord Loreburn, the Lord Chancellor, who said: "Mr. Smith, I predict that you will one day sit in the seat which I now occupy." He replied at once: "Lord Chancellor, if I do I shall always try to be as kind to young men as you to-day have been to me."

F. E. Smith came into collision with the Bench on many occasions, both in High Court and County Court. Once he was opening a case before Mr. Justice Ridley. When Smith rose to address the jury, the judge most unjudicially observed: "Well, Mr. Smith, I have read the pleadings, and I do not think much of your case." Smith replied quickly: "Indeed, I'm sorry to hear

that, m'Lud, but your lordship will find that the more you hear of it the more it will grow on you ! ”

He appeared before Judge Willis, a worthy, sanctimonious and garrulous county court judge, full of kindness expressed in a highly patronising manner. F. E. Smith had been briefed for a tramway company which had been sued for damages for injuries to a boy who had been run over. The plaintiff's case was that blindness had set in as a result of the accident. The judge was deeply moved. “Poor boy, poor boy,” he repeated, “blind. Put him on a chair so that the jury can see him.” These remarks from the Bench were highly prejudicial to Smith's case, and he said coldly : “Perhaps your honour would like to have the boy passed round the jury box.” “That is a most improper remark,” said Judge Willis angrily. “It was provoked”, said Smith, “by a most improper suggestion.” A pause ; then the judge said : “Mr. Smith, have you ever heard of a saying by Bacon—the great Bacon—that youth and discretion are ill-wedded companions ?” “Yes,” came the reply, “I have. And have you ever heard of a saying of Bacon—the great Bacon—that a much talking judge is like an ill-tuned cymbal ?” This retort had long lain pigeon-holed in his mind, but he had never anticipated such a heaven-sent opening. The Judge replied furiously, “You are extremely offensive, young man,” to which Smith replied with a shrug and a sneer : “As a matter of fact, we both are, and the only difference between us is that I am trying to be, and you can't help it. I have been listened to with respect by the highest tribunal in the land, and I have not come down here to be browbeaten.”

The same judge, after a long squabble with F. E. Smith upon a point of procedure, asked, “What do you suppose I am on the Bench for, Mr. Smith ?” “It is not for me”, answered Smith, suavely “to attempt to fathom the inscrutable workings of Providence.”

Even when direct rudeness was impossible he had other methods of silencing people. He was once pleading before a High Court Judge, and one of his witnesses was being cross-examined and was holding his own with great difficulty against Counsel. His Lordship made continuous noises of disapproval by clicking with his tongue. Smith, seeing that this most unjudicial behaviour was prejudicing his case, sat fidgeting in his seat, uncertain what to do. Then Smith noticed that his

lordships teeth had fallen out, and he suddenly rose to his feet and said: "I beg your lordship's pardon." The clicking noises stopped, and the judge said: "I did not say anything, Mr. Smith." "Oh," came the reply, "I beg your lordship's pardon, but I thought something *fell* from your lordship."

In 1907 there was another collision in the county court. The judge, during the course of the hearing, over-ruled a question put by Smith, who said: "If your honour would only be good enough not to interrupt me." "I shall interrupt you and any other Counsel whenever it is necessary." "I rather gather from your demeanour that you probably will." "Yes, I shall." "So I see. Will you permit me now to tell you what the submission is I wish to make? . . ."

Later a question was being discussed relating to the effects of a disease, and the judge said sarcastically; "The learned Counsel knows everything." "I am a humble imitator of your Honour, although I don't make so much noise. May I ask a question on your Honour's cross-examination?" "No." "I am not allowed to ask a question on your Honour's cross-examination?" "No." "I am extremely obliged to you for your courtesy."

His mind worked with tremendous speed in court. He appeared once for an omnibus company which was being sued for damages by the parents of a boy whose right arm was said to have been hopelessly crippled in a collision. It was alleged that he could no longer work, and could not raise his arm above the level of his shoulder. Smith was very sympathetic and pleasant, and took great pains to put the boy at his ease. "Will you please show us how high you can lift your arm now," he said. With face contorted with pain the boy slowly raised the arm to the level of his shoulder. "Thank you," said Smith. "And now please will you show us how high you could lift it before the accident?" In a second the arm was thrust high in the air, and the case was lost.

In another case concerning a taxi collision, the question arose of identifying a particular taxi, as it drove along. The witness for the plaintiff against Smith was trying to prove that he could identify the taxi, and was recalling different features about it which could not possibly have been noticed by even the keenest observer as it passed him. He claimed to recall the colour, the make, the badge, the condition of the hood,

the shape of the horn, and other small features. F. E. got up and said politely: "You didn't happen to notice, by any chance, what fare was marked up on the taximeter?"

This speed of mind never deserted him. In another case the last of his witnesses was being cross-examined. The cross-examination drew to a close and it was clear that the witness had given his evidence to the intense disapproval of the judge, who exclaimed, "I have not believed a single word that has been said by any of the witnesses." "In that case," flashed Smith, "I presume judgment must be given for the defendant."

Although he was highly receptive, he was not ashamed to admit when he failed to understand a case. Judge Hargreaves recalls one occasion when Smith admitted that he had failed to understand one word of the case from beginning to end. It was a highly complex case of a patent, which had, in the end, been sent up to the Lords. The chief expert witness for the other side had just finished giving his evidence, when to F. E.'s horror, he saw his leader folding up his papers and preparing to leave court. F. E. Smith had no conception that he as junior would be called upon to deal with a highly complex point. He was furious at the leader's attempt to desert him. He saw that nothing but the firmest action could prevent a crisis, and he addressed his leader as follows: "I see that you are about to leave the court. I think I will therefore take this opportunity of stating that from the commencement of this case to the present moment I have not understood one single damned word of it. As I see you gathering up your papers with the intention of leaving this court, I have come to the conclusion that the best thing I can do is to leave it first." The leader paused and decided to stay.

The Lever libel action of 1906 is a good illustration of the range of his stamina and power of his mind. Mr. William Lever, afterwards Lord Leverhulme, was accused in a certain section of the Press of creating a "soap trust". These accusations sprang from the beginnings of rationalisation in the industry, which had greatly extended the influence of the Lever business. Mr. Lever began to consider an action and took counsel's opinion, consulting a well known K.C. and junior. They delivered a long-winded and hesitating opinion, trying to dissuade him from an action. Mr. Lever was not satisfied with this advice, and through his solicitor, the late George

Harvey of Liverpool, he laid the case before F. E. Smith. Smith was spending the week-end in Oxford, where a telegram was sent to him asking him to come at once to London on the most urgent legal business. He started at once, and when he reached his hotel found a stack of papers nearly four feet high waiting in his rooms. He was told that an opinion was urgently required by nine next morning. He ordered a bottle of champagne and two dozen oysters: then he settled down to the task of reading the papers. They were of great length and great complexity. He worked on them for eleven hours, all through the night, and at eight-thirty next morning he scribbled the following opinion:

"There is no answer to this action for libel, and the damages must be enormous."

F. E. SMITH.

Acting on this opinion, Mr. Lever instituted his first action against the Northcliffe Press on July 15, 1907. Sir Edward Carson, K.C., Mr. Horridge, K.C., Mr. F. E. Smith and Mr. E. G. Hemmerde appeared for the plaintiffs. On the other side were Mr. Rufus Isaacs, K.C., Mr. H. E. Duke, K.C. (now Lord Merrivale), Mr. Norman Craig, and Mr. G. A. H. Branson (now Mr. Justice Branson). The result of the series of actions, of which this was the first, completely justified Smith's laconic opinion. After Mr. Lever, who was called as the first witness, had given evidence, the allegations which had led to the action were withdrawn, and the defendants agreed to pay £50,000 in damages. Further sums were afterwards added, and the total paid to Lever in compensation was £91,000.

In the course of 1908, and shortly after he had taken Silk, Smith was engaged on an important and curious appeal to the Privy Council.¹ It concerned fire and earthquake in Jamaica. The fire followed upon the heels of the earthquake, and the business quarter of Kingston had been completely destroyed. The litigation arose over the enormous claims made on insurance companies, whose policies naturally contained clauses which exempted them from liability for fire due to earthquakes or similar "acts of God". The companies' claim was that the great fire which ravaged Kingston was due to the earthquake. If this was established, the tremendous loss would have fallen upon the sufferers, a loss which would have led to a tremendous

¹ *Scottish Union and National Fire Insurance Company v. Alfred Pawsey and Company*.

dislocation of the financial houses. If the fire sprang up independently and the loss covered by the insurance companies, the companies would suffer very heavily. Many actions took place, some beginning in England but most of them tried in the dusty court rooms of Jamaica. The evidence had, of course, to be taken locally, and English barristers sailed to the Indies to conduct the proceedings. Smith was asked to go with them, but was too busy to accept.

The appeal in which he was acting concerned some property in Harbour Street, Kingston. They had been burned down, but not gutted completely. The case was, with many others, tried locally, and a verdict returned in favour of the policy-holders. The companies appealed in vain to the local court of appeal, and then brought their appeal before the Privy Council. Smith accepted a brief with other counsel for the policy-holders. Was the evidence which had been produced sufficient to justify the verdict? An enormous wealth of evidence was submitted to the court and the story slowly emerged from it.

It was Monday, January 14, 1907, in Kingston. In the morning it was a beautiful day, a deep blue and cloudless sky and pleasant light breezes. After lunch it grew steamy hot, and the sun beat down on the white houses which nestled in the hills where the people lay in siesta. The steamship *Port Kingston* lay alongside the wharf and the chief officer stood at the side shading his eyes to look down at the sunny town. At half-past three he saw a column of black smoke rising near the parish church. The town was suddenly shattered by a violent convulsion: hundreds of houses collapsed in ruins under a cloud of dust. Then great tongues of flame began to leap through the dust cloud. The business quarter of Kingston was on fire. It raged all night, and by the morning the centre of the town was a black smoking ruin. The damage had been caused by the shock which took place at 3.35 p.m. It was followed by lesser shocks during the night.

It was extraordinarily difficult to obtain from the witnesses any coherent evidence. In the panic which followed the first convulsion, men were rushing to and fro intent on rescue or salvage. There was a general and hopeless confusion, and when they had collected their thoughts and tried to recall what had happened, they found it almost impossible to remember the sequence of events.

On one point all were agreed. After the convulsion a column of smoke arose, then a second, and a third. These columns became fused together in a single huge flame. The companies claimed that before the shock of the earthquake the town had been safe and that the fire followed on its heels, that when one of the stricken houses collapsed the cooking fire in it had spread and caused the general destruction. Those who lived in the house had not noticed this fire before the earthquake, until the shock was over; nor had it been noticed by anyone in the street. It was thought that the effect of the shock had been to dislodge some chemicals which had been thrown on to the flame of a Bunsen burner, and that the fire had been caused in this way. Against this was the evidence of a maid, who said that the burner had been extinguished. How then had the chemicals been set on fire?

There was other evidence which told against the Company's claims, evidence that the smoke had preceded the shock. When Captain Munro was anchoring his ship, he saw the smoke rising; five minutes afterwards the shock was felt.

Two negro servants of the German Consul, in a bungalow in the hills, six miles away, scanning the horizon for the advent of a German ship, suddenly saw a column of smoke rising high above the town. Then they were aware of the shock of the earthquake. Another observer of the column estimated by trigonometry that its height was precisely 205 feet. A woman living nearer to the town saw the smoke, and sent one of her children to fetch her husband, but the earthquake came before the child reached him and the woman was severely hurt: one of the children died painfully of a broken back. This was obviously severe testimony against the companies. Counsel tried to shake her in cross-examination by asking why she had suppressed her story so long, but he could make no headway, for the woman had been absent for months, ill herself, and vainly trying to save the life of her child.

Many witnesses had seen the column of smoke as the dust dispersed, the dust cloud which had only hung about for five minutes. This was too short a time for the column of smoke to have gathered and ascended to such a height. It was admitted that the smoke was already high five minutes after the shock. A neighbour, whose house collapsed, was pinned down by the arm immediately after the earthquake; he wrenched his arm

free, leaving great shreds of skin upon the beam, so that the arm was afterwards amputated. His reason for doing so was a panic fear that he would be burned alive by the fire which had already started next door. This implied that the fire had already taken hold, and there would have been no possible reason for such a desperate action if it had not. If it had, his action was perfectly natural.

A fire was then presumably raging in King Street. But the case on appeal related to a shop, 104 Harbour Street. The Company claimed that this fire, at any rate, came after the earthquake. This was true, but the policy-holders of 104 replied, first, that their shop caught fire from the blaze in King Street, since the gusts of wind blew ashes and sparks in their direction, and that, secondly, the Army and Navy stores had been menaced by both fires but that the King Street fire arrived there first.

The Company had an answer ready for this. When the shop at 104 fell some men were entombed in the ruins. There were stores of safety matches near a door; also wine and oil. The floors above had collapsed on them. One man climbed out through the aperture where the door had been and escaped. Others sat in little groups in inky blackness, talking. After a while those who were sitting nearest the street began to feel heat and smell smoke fumes. Soon after they were rescued. They could form no clear estimate of how long they had been imprisoned, for they had sat in utter darkness with their minds tortured by the fear of living burial. When they came forth, with eyes blinking into the strong sunlight, the shop's ruin was ablaze. The Company contended that the matches had caught alight, but they cited no expert support for their theory. Besides, Davies, the first man who had escaped, could not have passed over the store of matches had they been alight. It was suggested that a match had been lighted by one of the imprisoned men, but no witness admitted this. Even if it had been established, the Company's claim would have collapsed, for the fire would have been caused by the lighting of the match, and not by the earthquake.

Secondly, there remained the claim that the original fire had caused the damage. Evidence was hopelessly confused as to the direction and strength of the wind, until Little, first officer of the *Port Kingston*, clarified the position by his excellent evidence. He described how he had watched the fire and its

progress, and he saw that with the wind blowing as it was his ship was in danger, and he cast loose to save her. Clearly the wind set his way.

The fire-brigade was of little use in evidence. They had suddenly to cope with the outbreak, and their whole attention was given to subduing the flames. The officers thought that the King Street fire had spread; other members of the brigade thought that fires had broken out all over the town. In fact the whole evidence was a tangle of contradiction. Chaos had reigned, salvage work and looting were everywhere. Bystanders had no time or thought for accurate observations. The local jury had found that the Army and Navy Stores was gutted by a fire which sprang up independently of the earthquake.

The hearing before the Judicial Committee of the Privy Council lasted for nine days, and on August 4, 1908, the appeal was dismissed. The court held that, while the evidence was conflicting as to the Kingston fires, the Jamaica jury could reasonably come to the verdict which they returned, and that verdict must stand. The insurance companies, accepting this as a test case, made haste to negotiate with their policy-holders. Later in the year all the claims from Kingston were compromised for a payment of 85 per cent. of the face value of the policies and of the legal costs. The companies lost fully a million pounds, but Kingston was saved from bankruptcy.

In 1910 F. E. Smith was brought into posthumous contact with Dr. Crippen, the murderer of 1910. The niche of this little doctor in the annals of crime seems secure. Year by year since 1910, there has been a grim succession of murders, murders more brutal than that of Crippen, more deeply premeditated, more foully accomplished. Yet the memory of their authors has faded and the sordid horror of their crimes is forgotten. Crippen lives on; he has survived them all. That prim Methodist countenance dominates the minor killers in the Chamber of Horrors and wears a placid look of assured immortality.

Perhaps the secret of his tenacious fame lies in that face, in the benevolent eye, the complacent moustache, the gentle expression. It was scarcely believable at the time, that so mild a man could have been guilty of so beastly a crime. Not only was the murder coolly planned, but a great horror was added to it by the callous mutilation of the body. This

mutilation was not the product of a sudden terror ; there was no feverish and unscientific butchering of the limbs. The little man's plan was carefully laid ; and his medical eye had foreseen and provided for the difficulties of disposal. His coolness had its limits, however, and if he had not fled in panic, his crime might never have been discovered. Crippen's was the first crime in which wireless telegraphy was used to intercept a fugitive.

F. E. Smith was not involved in the trial of Crippen himself. He was retained to defend Crippen's mistress, Ethel Le Neve, on the charge of complicity in the murder, but, in reviewing her case, it is necessary briefly to follow the course of her powerful and fatal liaison with Crippen.

Crippen had qualified in medicine in the United States and had come to England in 1909 to join a firm which sold patent medicines. Soon he was brought into contact with a firm called the Drouet Institute, in which Ethel Le Neve was working as a typist. Crippen was her superior and she took her orders from him. The little doctor was fifty ; he was living with his second wife, half German, half Pole, whose maiden name was Kunegunda Matamotski. The name was changed several times, first she called herself Cora Turner, and afterwards Belle Elmore. She yearned for success on the stage and her eyes turned wistfully towards the glittering lights of the suburban music-halls, but she was condemned to disappointment by a complete absence of dramatic talent. She was a large flashy woman of uncertain temper, indifferent to her husband, and slatternly and incompetent in the management of her house. Crippen, no lover in outward appearance, yet longed for the real tenderness and passion of a woman, and the emotional side of his nature had been for years starved by his discordant and sordid marriage.

He turned to Ethel Le Neve, his typist ; to his credit it should be said that he did not only seek from her the casual satisfaction of his body, but all the affections, both sensual and tender, which his wife was unable to give him. She passively accepted his love at first and was clay in his hands. It is easy, even at this distance, to understand the reverence which this poor working girl felt for this educated and cultured lover. Although he was middle aged, it was impossible for her to resist him : he focused on her all the force of his starved affections

and his thwarted passions. His appearance was no barrier, for beneath it there was an inflexible will and nerves of steel. She was unhappy and ductile, the very type of woman to yearn for complete possession by a man : and she saw ahead of her the vista of weary and hopeless years given over to a gloomy routine. In 1907 she was still his typist, but she had become his mistress, too. Still she was not happy, even in the knowledge that Crippen's love for his wife was dead and cold. Nurtured in the rigid tradition of the lower middle class, her whole nature recoiled from a surreptitious union. She was true to that class in her passion for respectability. Secondly she was greatly distressed by the fact that Crippen still lived with his wife. It was not enough for Le Neve to know that Crippen was her lover : she could not bear the thought that he still lived under the same roof as his wife. Her love had quickly progressed to the fixed desire for complete possession ; she loathed subterfuge and evasions. Already neurotic, she became ill and miserable whenever her mind played on her lover's home.

This home was Number 5 Hilldrop Crescent in North London. The housekeeping was slovenly and the atmosphere one of tension and quarrels, amidst which Mrs. Crippen consoled herself for her dramatic failures by sordid intrigues with other men.

In February 1910, Crippen suddenly announced that his wife had left England and had sailed for the United States. Then his relations with his typist became more open. He took her to a dance ; the pale wisp of a girl appeared on his arm wearing articles of Mrs. Crippen's jewellery, a fact which was a subject of unfavourable comment among her relations, many of whom were present at the dance. In March Le Neve went to live at Hilldrop Crescent, giving out that she was Crippen's housekeeper, and they lived there together until July. Mrs. Crippen's relations and friends for a time accepted the doctor's story ; but no word came from her, no address was given, and they became alarmed. They met and discussed the matter and decided to consult the police. A police officer went to visit Crippen in Hilldrop Crescent. Crippen received him affably, and said that the truth about his wife was that she had run away with another man. He explained that he had invented the story about her going to America to cover up any possible scandal. He introduced the inspector to Miss Le Neve, and

allowed him to go over the house. The inspector saw nothing suspicious and left. Then panic came upon Crippen, he seemed to feel the tentacles of the law closing in on him, and he made the fatal blunder of escaping. When Inspector Dew went down to the office to ask Crippen some trivial detail next day, he found it deserted. When he went to Hilldrop Crescent he found it equally bare. Then he and his subordinates began a really systematic search. After ransacking every room in the house for two days, Dew decided to take up the floor of the cellar, and he was rewarded by finding buried beneath it the tattered shreds of Elmore's corpse.

A warrant was issued at once, but there was not the slightest indication where the couple had flown. Dew circulated their description; he knew that Crippen had disguised Le Neve as a boy, but he did not know where they had gone to. They were, in fact, on the s.s. *Montrose*, bound for Quebec. They had reached it *via* Rotterdam and Antwerp, and were travelling as father and son under the name of Robinson. It was another inexplicable mistake on the part of Crippen to disguise his mistress as a boy, and the Captain of the *Montrose* soon observed that they were kissing with a warmth unusual between father and son. He had heard, as all the world had, of the fugitives. He cultivated the friendship of Crippen, asked the little man to his cabin for drinks, engaged him in long and unskilful duels at piquet, and attempted to glean the secrets of his private life. All his suspicions were confirmed by what Crippen's random conversation told him, and he rigged up a large looking-glass opposite to the cabin window of the *soi-disant* father and son, and looking in it he watched them undressing and was thrilled to notice that Le Neve was a woman. His wireless operator quickly got into touch with England and established their identity. So the ship sailed on to Quebec; by day the peculiar couple paced the promenade deck, and at night the lovers lay in each other's arms weaving dreams of an enchanted future, little thinking that the police of two continents would be awaiting their arrival.

The Scotland Yard men first went to New York by the quicker route; from there they took train to Quebec, and embarked on the pilot boat. When Crippen saw his doom he quietly set a curse upon the Captain of the *Montrose* before he was taken into custody, and precisely one year afterwards the Captain

of the *Montrose*, sailing upon a different ship, foundered and sank at precisely the same point where the pilot boat arrested Crippen.

When their ship arrived they were arrested and committed for trial after they had been brought back to England. Crippen was tried first: his trial lasted a week: it does not here concern us, and it has passed into history. All London flocked to it and the smart ladies in the gallery shuddered as portions of Mrs. Crippen were passed round the jury on a plate. It was a hot day; there was a sudden feverish consultation between counsel. Then they asked that the plate might be taken away and the windows opened. A spontaneous laugh ran round the court, and it was noticed that no one in the room laughed more loudly or heartily than Crippen.

He was found guilty and sentenced to death on October 22. He appealed, but his appeal was dismissed and he was hanged, still refusing to admit his guilt. However he had lived, he died at least in the very odour of chivalry. His sole anxiety was for Le Neve. He was a most devoted correspondent to her. In the condemned cell he wrote only one letter a day, and this was invariably to Le Neve, and was always tender and considerate.

When his reprieve was refused Crippen wrote:

"The governor brought me the dreadful news about ten o'clock. . . . When he had gone I first kissed your face on the photo, my faithful devoted companion in all this sorrow. Oh! how glad I was I had the photo. It was some consolation, although in spite of my greatest efforts it was impossible to keep down a great sob and my heart's agonised cry. How am I to endure to take my last look at your dear face; what agony must I go through at the last when you disappear for ever from my eyes. God help us to be brave then. . . .

"God help us indeed to be brave. I am comforted at least in thinking that throughout all the years of our friendship, never have I passed one unkind word or given one reproachful look to her whom I have loved best in life, to whom I have given myself heart and soul, wholly and utterly for ever."

Crippen had counted all along on a reprieve: when he heard that his last hope had gone he collapsed, and later tried to take his life by opening an artery with a piece of glass from his spectacles.

The night before his execution, when the whisper of death that Wilde sang in the haunting stanzas of *Reading Gaol* had

crept into the prison, they brought him a telegram of farewell from Ethel Le Neve. Again he broke down and was shaken with anguished sobs. Again and again he insisted on her complete innocence from complicity in the murder, and as the end came near he wrote :

“In this farewell statement to the world, written as I face Eternity, I say that Ethel Le Neve has loved me as few women love men, and that her innocence of any crime, save that of yielding to the dictates of the heart, is absolute. To her I pay this last tribute. It is of her that my last thoughts have been. My last prayer will be that God will protect her and keep her safe from harm and allow her to join me in Eternity. . . . I give my testimony to the absolute innocence of Ethel Le Neve. She put her trust in me, and what I asked her to do she did, never doubting. . . .”

Ethel Le Neve was naturally charged with being an accessory to murder after the fact. If it could be proved that while knowing Crippen to have murdered his wife she had connived at his escape, this charge would be valid. Her trial came on October 25, 1910, at the Old Bailey, before Lord Alverstone. Sir Richard Muir led for the Crown, Smith led for the defence, assisted by Mr. Barrington-Ward. Smith soon observed that Sir Richard was not completely confident of his case and that he was attempting to sidetrack him into the position of proving that Le Neve was not guilty. Smith, mindful of the axiom of the common law which demands that the accused must be proved guilty, refused to tumble into the trap. He saw quickly that Sir Richard was not confident of establishing his case and considered that the Crown had not proved their accusation and he deployed his forces accordingly. The verdict of the jury and the summing up of Lord Alverstone proved that he was right.

The Crown insisted, to begin with, on the guilty relations which had existed between Crippen and Le Neve. Then they emphasised the sudden illness and decline of the prisoner at the date of the murder, the deadly pallor, the violent neurosis which indicated that she had been shaken by the consciousness of a sudden guilt. What had she to say in explanation of her changed attitude? According to the Crown her only explanation was that she was made sick and ill by the thought of her lover living with his wife, by the enforced intimacy which, as she thought, belonged to her alone, and that in the eyes of the world she lacked the monopoly of Crippen's love. But this

was held by the prosecution to be untrue, for had not this position lasted for years? Sir Richard Muir laid emphasis on the fact that her drooping spirits had revived swiftly after the death of the wife, and that she had gone to parties clad in the wife's jewellery. Then they pointed to the fact that Le Neve had gone to live at Hilldrop Crescent, that she had suddenly taken panic, dressed herself as a boy and fled. From these facts the prosecution deduced that she must have had a guilty conscience, and defied her to defend herself on the evidence.

F. E. Smith made no attempt to gloss over the intimate relations between Crippen and his mistress; he had nothing to fear from it, for it was no proof in law of Le Neve's complicity in the crime. He put Mrs. Jackson, Crippen's landlady, through a racking cross-examination. The incriminating dates shifted, and the case for the prosecution was weakened. Smith's cross-examination revealed the fact that Le Neve's *malaise* occurred during the lifetime of Mrs. Crippen. He also showed that although the recovery took place at the same time as the murder, it could reasonably be attributed to the fact that Crippen had told Le Neve that his wife had left England. Naturally she became gay and happy: she looked forward to the moment when Crippen's divorce would pave the way to an unclouded future of happiness. At last she saw in material promise the assured, the respectable position for which she had longed. Smith argued the extreme unlikelihood of Crippen confessing his crime to her and urging her to elope with him. If she had seen him as a self-confessed murderer she must have recoiled from him. It was inevitable. Secondly, since Crippen had taken such trouble to keep his crime dark from the world, it was highly unlikely that he would have confessed to her. Again, Dew had been satisfied with the truth of Le Neve's story. He came to the question of the flight in disguise, but this, he claimed, could be easily explained by the fact that Le Neve knew that Crippen was frightened and anxious but that she had not the slightest knowledge that he had committed murder.

Finally he dealt with the question of whether she had read the English newspapers at Antwerp. The prosecution had only proved that they were available, and in addition there was evidence that she had not read them. She had said that she had seen no papers since she left England. She denied emphatically any knowledge of the murder. Crippen had supported



F.W.
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F. E. SMITH PLEADING IN THE COURTS

her denial and, indeed, it was improbable that he would have imperilled his chance of carrying off his lover by imparting to her his dreadful secret. Smith claimed that in the face of the evidence, the case for the prosecution had collapsed. In his peroration he rose to forensic heights.

"We are asked to infer that Crippen must have told her about the murder. Never in the history of our law has a prosecution asked a jury to draw an inference so crazy and so cruel from such facts. When she leaves this dock acquitted by your verdict the prospect which opens out to her is not one of happiness. She will be known all over London, and all over England, as one who has been the mistress of this murderer. When she leaves the dock there must, in any event, be a most unhappy future for her. Let her at least have the satisfaction of knowing that she leaves it with the assent of twelve jurymen who have heard this case, and who, though not blind to her faults, have acquitted her. I do not ask you for mercy. I only ask you for justice. And I am content you will judge her in her hour of agony with the consideration you would wish shown to a daughter of your own if she were placed in the same position."

Lord Alverstone's summing up followed, an impartial and careful summary of the case, and the jury did not hesitate long in bringing in their verdict of not guilty.

Le Neve was indeed acquitted through the paucity of evidence against her and many thought at the time that her life hung fortunately upon this slender thread. Yet she was no accomplice in murder. Soft, avid for the marriage state, fearful of the prospects of failure in this, the solitary adventure of her emotional life—she was innocent in every detail of the crime that was charged against her. Lord Alverstone said to Smith after the case: "I think you ought to have put her in the box." Smith replied: "No. I knew what she would say. You did not." Smith, unlike many barristers entrusted with a brief in a murder trial, was throughout convinced of her innocence; afterwards, casting his mind back over this case, he wrote:

"Frail she was, and of submissive temperament, but not an accomplice in murder, or an ally in its concealment."

CASES WITH HORATIO BOTTOMLEY

F. E. Smith in the years before the War was concerned in many cases in which Horatio Bottomley was involved. Mr.

Bottomley was at the time editor of *John Bull*, and in that capacity had to defend many libel actions. He was also actively engaged in company promoting and here again came in collision with many a man who had had dealings with him. Whenever possible, Bottomley liked to conduct his own case, which he did with much skill and wit. F. E. Smith would then be briefed for the journal or for the Trust company through which Mr. Bottomley operated.

The first case in the long series was decidedly serious. Mr. Horatio Bottomley was prosecuted with others in December, 1908, for irregularities in connection with the Joint Stock Trust and Finance Corporation, wound up in May, 1906, and the Selected Gold Mines of Australia, Limited, wound up in February, 1906. Mr. Bottomley defended himself, but F. E. Smith appeared for two of Bottomley's associates, Mr. G. F. Fewings and Mr. W. A. Stevenson. The hearing at the Guildhall, where Mr. Avery, K.C., appeared for the Crown, lasted with intervals from December 1, 1908, to February 25, 1909. On that day, the twenty-third of the hearing, Alderman Sir George Smallman was compelled by illness to retire, and when on March 1, 1909, Alderman Sir Horatio Davies took his place at the Guildhall, it became a question whether all the evidence given in the previous twenty-three days should not be taken afresh. Mr. Avery, the prosecuting counsel, proposed to recall a few of the hundred witnesses already heard and then to finish the evidence of those not yet called. Mr. Bottomley, and Mr. Smith for his clients, protested, and F. E. Smith undertook to apply to the Divisional Court for a ruling. He did so on March 2 but was refused. He argued that if the evidence already given by them was read over to the witnesses who were to be recalled they would, in effect, be asked leading questions which would be improper. Mr. Justice Phillimore and Mr. Justice Walton, however, held that the alderman was entitled to hear the case in his own way.

Sir Horatio Davies now fell ill, and the case was heard from March 8 by Alderman Sir James Ritchie. Bottomley was magnificent throughout the proceedings. Many an eye was moist when at the conclusion of his speech on his own behalf he threw up his hands and cried in melting appeal: "Hunted and harassed and hounded, I throw myself before this ancient seat of Jurisdiction, and I ask for—Sanctuary!" Ritchie

dismissed the summons on March 12, amid loud cheers from Bottomley's sympathisers.

Three other cases of Horatio Bottomley's may be cited as typical of the litigation in which he sought F. E. Smith's help. On March 24, 1903, in the case of *Murray v. Bottomley* and another, Mr. J. A. Simon, K.C., represented the plaintiff; Mr. Bottomley conducted his own case; F. E. Smith appeared for the co-defendants, the John Bull Investment Trust and Agency Limited. The action was for recession of a contract to take shares in the defendant's company on the ground that it was induced by fraud. Mr. Bottomley spoke at length and repeatedly. The opposing counsel was cross-examining him: he began briskly: "Now, Mr. Bottomley, I am going to ask you a very serious question." "Ah," said Bottomley blandly, "no doubt to distinguish it from your earlier ones." F. E. Smith in his speech for the John Bull Trust displayed extreme caution as to that concern and hinted that the plaintiff, a retired miller, was not so innocent of business as he had pretended. The jury on April 1 found for the plaintiff, with damages against both defendants.

Mr. Bottomley was more fortunate in the next case of *Parker v. Bottomley* in April-May, 1910. It was an action by the executors of G. W. Parker to recover £25,116 in respect of money lent to him or paid on his behalf by Parker. Here, F. E. Smith with Mr. Leslie Scott, K.C., and Mr. Haldinstein were for the defendant, and Mr. Lush, K.C., Mr. J. A. Simon, K.C., Mr. Schiller, and Mr. Galbraith for the plaintiff; a judgment of 1905 for £20,000 had never been enforced or set aside. Bottomley said that it was a friendly arrangement: he had been operating with Mr. Hooley. The jury gave a verdict for the defendant.

As an example of the *John Bull* libel actions there was the case of *Beardall v. Bottomley* and others, heard on May 2, 1910, and on following days. There was a brilliant array of counsel. Sir Edward Carson led for the plaintiff, Mr. Bottomley conducted his own case, with F. E. Smith for *John Bull*, and Mr. Hemmerde, K.C., for Odhams Limited, the printers.

The plaintiff, a solicitor, was charged by *John Bull* with helping to get a witness in a pending suit out of the country. It was alleged that he had given an ex-employer, Sibbald, of the National Cash Register Co., £80 for him and his family to go to America, so that he could not be called as witness by an hotel proprietor, a director of the company, who was bringing an action against

the National Cash Register Co. Plaintiff said that the payment had nothing to do with the hotel-keeper, Mr. Crane of Leeds. But there was another hotel proprietor, Reed of Kilburn, who had bought a machine while Sibbald was district manager. Cross-examined by F. E. Smith, plaintiff admitted that they wanted Sibbald to go lest he should join the rival Saxe Company. Hundreds of claims had been made against the company and £13,000 paid out in connection with them. Bottomley, in his most impressive manner, said that he had conducted *John Bull* for five years in the interests of national morality, and that he had a public duty to perform, and the result was a verdict for the defendants.

CASE OF SMITH *v.* "WINNING POST," 1910

The perils of the Libel Law have rarely been more sharply emphasised than they were in the case of Smith *v.* the *Winning Post* in July, 1910. F. E. Smith appeared for the *Winning Post*, and Mr. R. S. Sievier, defendants, in an action for libel brought by Mr. Robert Charles Smith, a gentleman rider. The question was whether the reference in a German actress's memoirs to a Smith who had been a gentleman rider in Germany, must be to the plaintiff, who had, in fact, ridden in German races. The editor and the writer of the memoirs said that "Smith" was a *nom de plume* to conceal the real name of the person referred to, which they gave in court.

F. E. Smith for the defence made great play with the plaintiff's exaggerated statements, and especially with his complaint that his wife, after reading the *Winning Post*, had refused to buy him a farm. "If you give a verdict for the plaintiff," he said, "then every Smith would be born with the biggest silver spoon in his mouth that was ever known, for he could always bring an action whenever a disparaging thing was said about a Smith." The humour of the argument should have converted the most stolid of juries, but it found for the injured Smith and gave him £550 damages.

THE POLITICAL DÉBUT (1904-05)

F. E. SMITH'S eyes had already turned towards a parliamentary career. By 1904 he was earning £6,000 a year, and he had always intended to embrace politics as soon as his means allowed him. "I myself," he said, "whether I proved right or wrong, had irrevocably made up my mind that the moment my position at the Bar justified it, I would try my hand at the parliamentary game." This was another bold departure.

As every barrister knows, it is a risky adventure for a man with no private means to attempt the fusion of a legal and a parliamentary career. The decision involves leaving temporarily the sheltered backwaters for the open sea. It means giving up what leisure remains over from his professional life without the assurance of any return, to devote hectic days and anxious nights to courting a constituency, which he may not even win, and which if he does win he will have the expense of maintaining. If he is returned, much of his vacation will be consumed in late sessions in the Commons, or in the all-important duty of nursing the constituency. If he has no private means, he will find that the £400 a year now (but not then) allowed by the State is by no means adequate for his parliamentary expenses, while an average election will cost not less than £1,000.

But F. E. Smith's soaring ambition saw at once that such paltry caution excluded a man from the highest honours. He saw that no man, conscious of great powers within him, could ignore the political field. "Politics", he said, "mean only the science of government . . . and if you are interested in politics, it is after all at Westminster that the great game is, and must be, played. It is there that you measure yourself not only with your fellow King's Counsel, but with all the great political gladiators of the day. Parliament is, after all, the microcosm of the talent of Great Britain; and no man conscious of great powers will willingly, throughout his career, be excluded from it."

He began to experiment by canvassing the Scotland division of Liverpool for which he was adopted as Conservative candidate, a constituency known to be a forlorn hope for Tories. It had for years, by the preponderance of the Irish vote, been returning T. P. O'Connor with unfailing regularity, but it was the best that F. E. Smith could discover, and he set to work to canvass it, thinking that he would at least derive experience, if not more tangible results, from his adoption. He roved round the division addressing small but enthusiastic meetings.

By 1904 his star was in the ascendant. In January he was debating the fiscal question with the nervous Mr. Lever, with Mr. Hemmerde in the chair. He added horse after horse to his stable; by June he was able to cut a dash in a yellow phaeton behind two of the smartest chestnut cobs in the north of England, with which he took second prize at the Birkenhead Horse Show, in competition with hackneys which never went on the road. It was a feverish life, alternating between London and the North, Smith pleading cases in London courts and rushing back by the midnight train.

He snatched a few weeks to go to Spain in the *Alicante* with Tobin and Mr. Rutlege and Mr. Jaeger. They touched at Corunna to see Moore's tomb, and on to Lisbon up the majestic sweep of the Tagus. Seville, Cordova and Granada were visited in turn; F. E. was struck dumb by the haunting beauty of the Court of Myrtles, lying asleep in the steaming heat. In those days long before Spain had been pierced with great roads, travelling was as primitive as when Borrow wrote *The Bible in Spain*, and in most places boulder-strewn mule-tracks were the only paths. Yet F. E. walked seventy miles in two days in great heat, and climbed the Sierra Nevada and lit a bonfire on the summit. From Granada they touched at Ronda and Algeciras and returned in September to England.

Smith's political activities in Liverpool were largely due to the sympathetic interest of Archibald Salvidge, the most influential man in Liverpool, and the man who, more than any other, had kept Conservatism alive in that city. Salvidge, later a Privy Councillor, managing director of Brent's Brewery, Alderman of Liverpool, was the most powerful supporter and patron of the Conservative Party. He was chairman of the Council of

the National Unionist Association, of Conservative and Liberal Unionist organisations, President of the Liverpool Constitutional Associations, and leader of the Liverpool City Council.

He had observed Smith's talents with a shrewd eye, and had constantly invited him to speak from his undergraduate days onwards. He had recently been watching his eager but futile attentions to the electors of the Scotland division, and no doubt had considered his transfer to a safe constituency, though when the election came it was to be discovered that there were few safe seats outside the Liberal interest.

Salvation came in the early months of 1905 in the person of Mr. Joseph Chamberlain, who was descending on Liverpool during the course of his memorable tariff reform campaign. Smith was no new convert to the principles of Protection. While a boy at Oxford he had firmly persuaded himself that while Free Trade, properly speaking, was clearly the ideal fiscal conception, it was none the less economically disadvantageous for a nation which had to exist in a Protectionist world, that, in spite of the great contemporary prosperity, which could be pointed to as the fulfilment of Cobdenism, it was yet impossible for a Free Trade country to compete indefinitely with rivals who used our markets but excluded us from theirs. He had, in 1892, written a paper on the question of tariffs, in which he questioned some of the more sanguine predictions of Cobden and Bright, so that when Mr. Joseph Chamberlain at the height of his fame was urging upon the country a programme of tariff reform, Smith was one of the first recruits to rally to his support in 1903. When Mr. Chamberlain returned from his tour in South Africa, the Chancellor of the Exchequer was the unimpressive Mr. Ritchie, who was a root-and-branch Free Trader, but whose views made no real impact on the Cabinet or the House of Commons. Mr. Chamberlain's fatal mistake was not to offer a more resolute opposition in the Cabinet to Ritchie's proposal to drop the corn duty of a shilling a quarter which his predecessor, Sir Michael Hicks-Beach, had imposed in 1901 to help in meeting the cost of the South African war. This duty while it was operative was a complete retort to the contemporary Liberal catch phrases about dear food. It was the essence of the tariff reform proposals, and Mr. Chamberlain was a political figure of the utmost distinction, but he did not accept the challenge at a moment when his decision might

have been accepted. The duty on corn was removed, and the Liberals were armed with their most powerful controversial weapon and accusation—that tariff reform must increase the price of the people's food.

Thus it was that when towards his seventieth year, and at the meridian of his fame, Mr. Chamberlain undertook that memorable campaign on which he squandered all the stored erudition of his fecund brain, and all the failing energies of his body, his appeal could not triumph over the unpopularity of his party; he was not assaulting the Liberal Party in a moment of weakness, but at a moment when a curious concurrence of chances was about to inflate it into the greatest power which any one party had enjoyed since the Reform Act.

The Government brought into power by the "khaki election" of 1900 had been invited to deal with a single issue—post-war recuperation: when it departed from this duty and addressed itself to highly disputed party issues it was doomed, and the limp reaction from the South African war was soon to produce a most formidable array of political antagonisms. Mr. Chamberlain was unfortunate in his moment, for he was making his appeal to a party that was already stricken to its knees.

It was in the midst of this campaign that he visited Liverpool in the early months of 1905. Smith was still engaged in his futile efforts in the Scotland Division. Mr. Chamberlain was to speak that evening at Hengler's Circus to a great audience and expound the principles of his fiscal policy. The arrangements for the supporting speakers were in Alderman Salvidge's hands. He at once approached Smith and invited him to support Mr. Chamberlain, as he shunned the invidious task of deciding between the claims of the Liverpool Members of Parliament, and Smith was the only Unionist candidate in the city who was not a member.

F. E. Smith saw that opportunity was knocking on his door again; he had never been slow to open it before. He set out to impress Mr. Chamberlain who could, if he chose, play so dominant a part in his political advance. But he was circumspect in his method: sycophancy and impertinence were equally useless as methods of approach; Smith prepared to blend the deferential with the oncoming; he was approaching another mile-stone in his life. He must impress Chamberlain without irritating, capture his attention first by some mildly impertinent remark, in place of the servile platitudes with which most young Conservatives

would have seen fit to greet their leader, then rivet the attention, once captured, by the eloquence which he knew so well how to use.

They met at a luncheon party given in the Town Hall, Liverpool, by the Lord Mayor, Watson Rutherford. Smith was introduced to Chamberlain after lunch; he had never seen him before and he looked at him with admiration and interest. Smith believed that any measure of tariff reform was impossible except on the basis of a tax on food, and that in the existing circumstances there was not the slightest chance of such a tax being accepted. He said coolly to Mr. Chamberlain: "Cannot you postpone the proposal to tax food until we are politically stronger? Cannot you, in the first place, use the Protectionist argument which has great value in the industrial constituencies, and postpone, until we are stronger, the full and ultimately indispensable programme?" Mr. Chamberlain turned and looked at the dark young man with faint amusement in his eyes; he surveyed him for a little, smoking a very large cigar. Then he snubbed him, slowly and deliberately: "My young friend," he said, "you have mistaken my purpose, all these matters were deeply considered by me before I conceived and declared my proposals."

Smith was far from satisfied with this reply, but he was not disturbed by the reproof, which meant that his arrow had gone home, but he judged it prudent to attempt no answer. "Had my age and standing authorised it," he said afterwards, "I should have pursued the controversy further, for I was completely unconvinced." But the seed was sown, and it only remained to make a brilliant speech.

He put his utmost into the speech. Mr. Chamberlain had given an incisive and learned fiscal address, but Smith did not allow his master to eclipse him. While he was speaking Chamberlain turned to Sir Archibald and said: "Who is this young fellow? He was arguing with me to-day. Who is he?" Sir Archibald replied: "He is a young barrister called F. E. Smith, of whom we have a very high opinion in Liverpool." Mr. Chamberlain asked what seat he was standing for: "The Scotland division," replied Salvidge: "Well," replied Chamberlain, "my advice is, get him a seat he can win." After the meeting he came up to Smith, who after his rebuff, scarcely expected any further conversation, and said, "I have told Salvidge that he must get you a safe seat. You will be returned to

Parliament, come up to me in the lobby of the House of Commons and recall yourself to my recollection."

At this time the Walton division was held by a Mr. Stock, a benevolent representative, but lacking in those gifts of virile controversy which were so soon to become necessary on Tory platforms. Smith never knew how the delicate question of transfer was finally adjusted, but one day Mr. Edwin Berry, a member of the Executive Association, approached him with the suggestion that he should take Mr. Stock's place. Jostling ideas crowded into his mind when the offer was made—a youthful entry into the Commons, an entry in Opposition, for every portent was ominous for Tory fortunes at the polls, an entry in a bedraggled Opposition, in which talent would most rapidly shoot to the surface. He awaited the decision of the committee, pacing to and fro in an ante-room in great suspense and anxiety. He waited for ten minutes, then it was told him that he had been adopted as Conservative candidate for the Walton division. Walton, in point of electorate, was the largest division in Liverpool, and the electors of Walton, who during twelve years of Conservative domination had not had an opportunity of exercising the franchise, were still regarded as predominantly Conservative in opinion. Since 1892, the power of the Unionist party in Walton had not been tested. In the interval, the electorate had increased by nearly 6,000 on account of the spread of building, in the north-eastern districts of Liverpool, of houses mostly inhabited by the better class of artisan, men keenly alive to political conditions. The Liverpool Press was enthusiastic over the change. In generous journalese one paper said:

"Without wishing to be invidious one may venture to assert that the most brilliant and broad-minded of all the candidates standing for Liverpool is Mr. F. E. Smith. He, more than any of his *compères*, has fought hardest, both on the platform and in the Press, for fiscal reform. Having studied it in every detail, and saturated himself, so to speak, with the irrefutable proofs, he goes to the Walton jury confident of the justice of his cause, and sanguine of a verdict in his favour."

There was clearly no misgiving in the Tory camp as to Smith's ability, for another paper said:

"Even Liberals will be glad in their inmost hearts that fire-eating Mr. Jellicoe has received his quietus. His political methods are evidently more to the taste of the people of the Antipodes than the

electors of Walton, and there are few that will deny that he has received his deserts. Mr. F. E. Smith's career in Parliament will be watched with sympathetic interest by all parties in Liverpool. He is a brilliant orator, and possesses a profound knowledge of [the fiscal and other political problems. By the tariff reformers in the House of Commons he will be hailed as a distinct acquisition."

Another gloomier portent arrived in the shape of a funeral card, heavily embossed with black edges, reading: "Gone, but not forgotten. In loving remembrance of the late Mr. F. E. Smith, the tariff reformer, who met his doom in Walton Division on Tuesday, 16 January, 1906."

So it was that in February, 1905, F. E. Smith found himself on the threshold of the parliamentary career that he desired so much. He left the hopeless arena of the Scotland division for a seat already held by a Conservative. The people of the north of England are of a different political fibre to the dwellers in the south and the Midlands. Their wit is more acute, their perception swifter and their loyalty more profound, and F. E. Smith's *début* in Walton was the commencement of a staunch and immutable allegiance. His constituents never failed him while he sat in the House of Commons.

Here it may be observed that Smith, like Chamberlain, appeared a different man, and a man truer to type amongst his own people in the north. They could scarcely believe, in Liverpool, the stories that drifted up to them of the heartless *frondeur* and relentless debater of St. Stephen's. The impression that he created among his own people was at once more agreeable and more true.

On February 24, 1905, the Walton meetings began. Smith immersed himself in the division; he spoke; he visited; he canvassed at fever pitch. He lost no occasion, for another crisis in his life was approaching, but in August he slipped away on an Elder Dempster liner, the *Port Royal*, to Jamaica.

Then there were the rides in the cool of the evenings when the scorching Jamaican sun had sunk into the spurs of the Blue Mountains—expeditions to the places with the beautiful names—St. Catharine's Peak, Hardware Gap, Chester Vail—a round of entertainment, and a great dance at the Constant Spring Hotel given by the governor, Sir Alexander Swettenham, and the voyage home on the *Port Kingston* with two Jamaican ponies, and a black servant called Septimus Simpson.

He was briefed as junior to Mr. (now Sir) W. F. Taylor, K.C., for the Liverpool Licensing Justices at the Liverpool Assizes on December 1-9, 1905, in an action for criminal libel, against Sir Edward Russell, editor of the (Liberal) *Liverpool Post*. Russell had published a leading article in which he definitely accused the justices of not wishing to reduce the number of licences, and of evading their duty in the interest of the trade. Russell was defended by Mr. Rufus Isaacs, K.C., Mr. Horridge, K.C., and Mr. Hemmerde, now Recorder of Liverpool, and after a long and acrimonious trial was acquitted. This action, which was in fact a trial of strength between Alderman Salvidge, the Conservative leader, and the Liberals in Liverpool, had an immediate repercussion on F. E. Smith's election campaign.

Mr. Balfour had resigned on December 4 and Sir Henry Campbell-Bannerman accepted office on December 5, and preparations were made for a general election. In the Walton division for which Smith was, as we have seen, adopted as candidate, Edwin Evans made it a complaint that F. E. Smith had advised criminal proceedings against the respected editor of the *Post*, and that friends of pure government should therefore from principle oppose him. A Liberal barrister, Stuart Deacon, added that Smith had identified himself with the drink traffic, and had engineered the prosecution. Smith quickly sensed the political advantage to which he could turn his attack. Speaking in Walton on December 13, 1905, he referred to Deacon's suggestion that he had acted wrongly in the libel case as a "cruel and cowardly attack". In 1902 and 1903 he had been counsel for the Liberals in a Shrewsbury election petition, and would have appeared for them but for another engagement. Had Russell briefed him first he would have done his best for him. Deacon knew perfectly well that he could not answer him as to advice given to his client. Two days later the *Courier* published a letter from Leslie Scott, K.C., commenting very warmly on the conduct of Evans and Deacon, and saying: "I know that F. E. would have advised Russell as impartially as he did the magistrates, and so would Deacon. No one should try to turn to political use a barrister's professional advice to his client which he must never reveal."

F. E. Smith was able to take his revenge publicly. At a great meeting in the Sun Hall in January, 1906, he referred

to Evans and his insinuations in the libel case. "Evans", he understood, "purveyed, among other things, pills, and he had not the slightest doubt that he sold pills to Conservatives and Liberals alike. He sells pills, and I sell brains, and I claim the same right in my profession to choose my customers by the same standard as Evans claims in his."

ELECTED TO PARLIAMENT (1906)

THE situation which was to be disclosed by the results of the General Election of 1906 was indeed friendly to the emergence of Unionist talent. The political heavens were dark and the moon was clouded; a rocket flashing across the sky would leave a more brilliant trail. The party was discredited and its ranks depleted, and many young men of Smith's type were loping hungrily in the wake of the Liberal caravan. Had his début in Parliament been made at a moment when the Conservative party commanded a large majority he might have waited for years for the opportunity which chance was soon to give him, for Mr. Balfour, like Lord Salisbury, was never swift to encourage the younger Unionist members, as Mr. Winston Churchill had found to his cost in the 1900 Parliament. Even F. E. Smith was to find in 1911 that Mr. Balfour was far from pleased when Mr. Asquith recommended him for a Privy Councillorship, and admitted his right, but did not ask him, to sit on the Front Opposition Bench.

As to the Unionist policy, Mr. Balfour, under pressure from the Tariff Reform majority of his followers in the House, was to write to Joseph Chamberlain on the eve of Parliament saying that fiscal reform must be the first constructive work of the Unionist Party, with the object, first of procuring more equal terms of competition for our trade, and secondly, a closer commercial union with the Dominions and Colonies, and that as the means to this a moderate general tariff on manufactures and a small duty on foreign corn were not, in principle, objectionable.

F. E. Smith threw himself body and soul into what was to prove the most desperate election fight of modern times. He canvassed feverishly from January 6 onwards. Disdaining the imported speaker, he strained a failing voice in addressing three meetings each night. His rival, Mr. Jellicoe, the Australian, began his campaign on January 13. Until twelve months before the election

this man had been a complete stranger to Walton. He had spent the greater part of his life in building a large practice as a barrister in New Zealand. In his speeches in the division he had appeared somewhat diffident about committing himself on the leading questions of the day, though he showed a close but inappropriate knowledge of Australian law.

The weather was merciless ; for days the city streets glistened under a stream of incessant rain. Smith disregarded the weather, and held four open-air meetings. Sir Edward Carson held a great meeting on January 11 at the Sun Hall. The tenets of Conservatism were patriotically and conspicuously displayed. "One flag, one throne, one Empire," said the programme. Alderman Salvidge, Mr. Thomas Royden and Mr. Robert Houston were advertised among the speakers. The band played a patriotic overture, followed rather unsuitably by a Japanese love song. Sir Edward Carson delivered an address, and the great crowd hummed with enthusiasm. Royden seconded him and Smith spoke later, and the meeting broke up having recorded "its unfaltering allegiance to the great principles identified with the Conservative and Unionist party".

Mr. Jellicoe was unknown in the constituency. He and the Smiths stayed at the Adelphi Hotel during the election. As the lonely evenings drew in Jellicoe had no other companion with whom he could discuss the movements of the electoral campaign except Smith's sympathetic but politically uninstructed valet, and Mrs. Smith's maid.

One cold evening Mrs. Smith rang for her hot-water bottle, but was told by her maid : "I've put it in Mr. Jellicoe's bed, his poor feet are so cold." But Jellicoe was no spineless candidate, and intense excitement crept over the constituency when it was seen how close the fight must be. Smith fought with all the violence of his ambition, and to the limits of his magnificent constitution ; every night he spoke at three or four meetings, then when the audiences poured out into the cold he mounted his wagonette with its high sounding bell, and with Dr. Richardson, "my combative and indefatigable chairman", held open-air meetings moving from corner to corner.

As we have seen he was not only fighting on behalf of a party which had outgrown its cycle of power, but he was also fighting against the most formidable cluster of slogans that ever led a political party to decisive victory at the polls. All these four

main issues were exploited by the Liberals with cynical purpose and devastating effect. The Chinese Slavery fiction which placed an indelible mark of shame on pre-war Liberalism, the hard-worked cry of "Dear food," the inevitable ripost to proposals of tariff reform, the teetotallers' hatred of the licensed trade, and the unpopular Unionist Education Act—all these were powerful solvents of the Conservative majority. It was a desperate battle, although there was absent in Walton that intense feeling which embittered the contests in other Liverpool divisions.

F. E. Smith informed his constituents that he was an implacable opponent of Home Rule, whether as an immediate object, or whether put forward as the ultimate goal of a series of preparatory intrigues, that he believed that Tariff Reform involved the whole future of the country as a progressive world power, that he defended the Education Act of 1902 and believed in keeping the Services up to the fullest efficiency and maximum numerical strength.

It was also a one-man fight, for he knew that the Walton electors did not wish to listen to imported speakers, but wanted the views of the man who was to represent them in Parliament. Day by day the elements that made for gloom increased. At that time polling took place on different days in the different districts. The results of Manchester preceded those of Liverpool, and they were of a nature to shake the most sanguine Conservative on January 15, the day before the poll. The rain poured down in thick silver clouds. Smith spoke at four meetings. Then he went tired into the Conservative Club. Disquieting news began to flash down the wires: Dudley Ward was in for Southampton, and a Liberal landslide was in progress. Smith left the club in great gloom and splashed off through the rain in his primitive motor-car. Then the disastrous reversals of Manchester came through: every Manchester and Salford seat was lost to the Liberals including Arthur Balfour's. In a desperate attempt to hearten his supporters Smith placarded every hoarding with the fantastic legend: "Is Balfour out? Then all the more reason for putting Smith in!"

Then dawned that fateful day, January 16, 1906, which was to decide Smith's whole future. The pavements glistened under the rain; it was bad weather for voting. Mrs. Smith canvassed and spent the whole day arranging for people to get to the poll. Smith went anxiously from one polling station to another; he

did very badly until six o'clock and his hopes sank to zero. Then the working men came out and began to vote for him in a steady stream.

The problem of conveying voters to the poll was a difficult one. Smith conceived the happy idea of breaking his hunters to harness. Four or five horses were thus prepared, and escorted over the Mersey by his groom, Rogers. Between them they conveyed 700 voters to the poll. The voters, indeed, hardly realised the risks they were running, but, as Smith said, it was a singular coincidence "that the vehicles thus erratically propelled" conveyed in the aggregate almost the exact number of the majority by which he was elected.

The poll was not given out until 10.30 p.m. Then it was announced that F. E. Smith had been elected Member of Parliament for the Walton division of Liverpool by the majority of 709. It was not a dazzling success considering that the constituency consisted of 18,000 electors, and that Jellicoe had not been present in the constituency until a few days before the election, but it must be measured by the political conditions of the hour. Smith saw his star rising and admitted: "this election was incomparably the greatest milestone which I had ever passed, or ever was destined to pass in my career. I was at last to be afforded the chance of measuring myself with those who were to determine the fortunes of the country."

He drove through cheering crowds to the Belmont Club. Then from the balcony he spoke to the people below. Then his car drove slowly down to the Conservative Club in Dale Street, where a great crowd had gathered outside and was waiting for him: he spoke again from the balcony. Next day Mr. and Mrs. Smith returned to the Grove. They walked two and a half miles from the station, and when they entered their gate they found banners hung across the drive, and the servants beating gongs and ringing bells.

As the election progressed Smith, as one of the few successful Conservative candidates, was much in demand in elections that were not yet decided. Although worn out by his efforts in Walton he left for Chorley to speak for Lord Balcarras, and on the 20th at Bootle for Colonel Sandys, and on the 22nd at Seacombe.

After this election fight, he felt like a spent swimmer, who had struggled to the shore, and could, from an eminence, survey the heaving waves which had so nearly submerged him. Glanc-

ing ahead at his prospects he was conscious of no feeling of morbid self-mistrust, no pangs of sudden diffidence. Rather did he see the future unrolled before him like a map, and traced the roads which he would follow and the goals to which they led. He had consciously equipped himself for this moment, and he was sure that the House of Commons was the right theatre for the display of his peculiar talents. Chatham taught Pitt to unloose his periods before empty halls and schooled him from boyhood in every thrust of the political art. Smith had been tutored, too, in an almost Georgian precocity. His mind had been moulded by his father from childhood and tempered by Oxford and the Bar : his political opinions had been crystallised by a wide reading and his natural eloquence enriched to its fullest power by practice. He saw that circumstances had placed before him a unique moment for swift emergence.

In the new Commons the Government trenches were teeming with exultant Liberals, so long excluded from power, and contemptuous of the fluttering voices of a tiny opposition. Such men had never before been seen at Westminster : even the Liberal leaders were appalled by their supporters, and Sir Henry Campbell-Bannerman might well have exclaimed with the Iron Duke : "I don't know what the enemy will think of these troops, but by God they frighten me!" Smith was not deterred by the labour of combining his rising practice at the Bar with his new parliamentary duties, for not only was he prepared to work at full pressure, but he also worked at lightning speed. There were few figures of prominence in the opposite benches who seemed to threaten his pre-eminence, or dim his light. When the new Parliament met on February 1, 1906, it met with a Conservative representation smaller than it had ever been within living memory. The election had converted a Conservative majority of 134 unto a Liberal majority of 356.

The group of forlorn Tories only came up to the first gangway.

The exact figures were :

Liberals	377	Conservatives	132
Labour	53	Lib. Unionists	25
Nationalists	83		—
	—		157
	<u>513</u>		<u>—</u>

These figures gave the Liberals a clear majority over all the rest.

Of the Opposition *The Times* reckoned :

109 Tariff Reformers.

32 Balfourites "on the fence".

11 Free Fooders.

One of the Free Fooders, Austin Taylor (Liverpool), deserted the Government as early as February 21.

The ex-Prime Minister, Mr. Balfour, had been defeated, together with several other ex-Cabinet ministers, and had indeed suffered the added indignity of being struck in the face by a red herring during one of his speeches. The strategic position in the House demanded guerrilla warfare.

Smith was as yet almost completely unknown at Westminster, but he had Mr. Chamberlain's pledge of help. How would he behave? Would he make an immediate and impetuous entry into debate, and prejudice his opportunity? Would he, like most new members, wait for some time before making a quiet and unpretentious contribution? In his choice of courses his character will be revealed.

MAIDEN SPEECH (MARCH 1906)

TWELVE days elapsed between Smith's first question in the House on March 1, 1906, and his maiden speech, twelve days, during which, exercising great self-control, he had listened to the exultant platitudes which fell from the mountain on the other side of the House. It was still, in 1906, an accepted tradition that a new member should first suffer under the eloquence of others before addressing the House, and, when he did so, should preface his remarks with a plea for indulgence. This convention would have applied particularly to a young and unknown member of the discredited Opposition.

Maiden speakers in the House of Commons are deterred by an incalculable quality in the audience, and success in Parliament cannot safely be predicted for the most brilliant speaker. Some of the most effective voices of the platform have fallen upon indifferent ears in the House of Commons. Rounded periods and classical quotations died with Gladstone; mere rhetoric is not enough. Men whose forensic eloquence has charmed juries have found themselves speaking to a House of Commons buzzing with animated conversation. Erskine and Russell, two of the most superb advocates at the English Bar, were doomed to a swift and absolute parliamentary failure.

F. E. Smith was convinced that he could master that difficult House, for he was clairvoyant with an audience. His speaking had no rigidity—he could withdraw the unpalatable in a moment, and sense what was desired. Few men of his age could have studied oratory more deeply than he, or applied the lesson more profitably to their own case. In fact, oratory and the law were the two subjects on which he had lavished most reading and attention. The descriptive genius of Macaulay, the corrosive irony of Gibbon, Bright with his limpid periods freshly quarried from Milton and the Bible, the beautiful simplicity of Greek eloquence, Demosthenes, and that funeral speech placed in the

mouth of Pericles by the genius of the greatest of Attic historians, Cicero's sweeping perorations, the astounding precocity of Fox, the speeches of Pitt, Burke, Gladstone, Disraeli—he had studied them all, and tried to learn from each the secrets of their art.

He had sat for some time, sensing the unfamiliar atmosphere, and declining to make a premature entry into debate, for blended with daring there lay in him a deep vein of prudence and circumspection. He was biding his time. When he sat looking round at the House, he saw beside him a little group of one hundred and fifty Conservatives: they were listless and dispirited, and the enormous majority seemed to weigh upon them like a thundercloud. The Liberal majority was exultant; out of power and place for so many years, they returned full of insolence and resolved that the result of the election was a mandate for the whole of their policy, including Free Trade, Home Rule, House of Lords Reform, measures for education, restrictions for licensing, and Welsh Disestablishment.

F. E. waited impatiently for a suitable moment to intervene. At length on March 12 it came. Sir James Kitson, a Yorkshire Liberal, moved a resolution in a conventional and boring speech, recording the satisfaction of the House that the country had recorded an unqualified verdict in favour of Free Trade. The debate was limited to a single day: during the course of that day the House was crowded to suffocation, although when Smith rose to speak many members had gone out, only to hurry back when they heard shouts of laughter. Everybody wanted to speak, and it was extremely difficult to obtain an opportunity. Smith approached Joseph Chamberlain in the lobby, and reminded him of his promise, asking him if he would influence Mr. Speaker in order that Smith might be called upon. He willingly agreed to do so, and when he came back he told Smith that he would be called upon at ten o'clock, the best hour of the debate. "This is the chance of your life, my friend," he said, "see that you use it."

But Smith had no intention of squandering this opportunity. Departing from habit he had prepared his speech, learned it by heart, and polished it into epigrammatic perfection.

In his excitement he forgot to ballot for a ticket in the ladies' gallery for his wife, but she was dining with Mr. Horridge, the Liberal who had unseated Balfour in Manchester. He had a ticket to spare, and gave it to her.

F. E. Smith and she drove down to Westminster together. Mrs. Smith was terribly nervous. Smith was impassive and silent. Suddenly he told her that he had resolved to stake all upon this speech, and to attempt a dazzling gamble, so that it would either prove an amazing success or a failure more shameful than Disraeli's maiden speech. "If I fail," he added, "there will be nothing for me but to remain silent for three years until my disgrace is forgotten." "Must you risk so much?" asked Mrs. Smith anxiously; but his mind was made up.

They entered the House, and Mrs. Smith went up at once to the ladies' gallery. Mr. Philip Snowden, the best orator of the Socialist Party, made his maiden speech directly before Smith. As he rose, members found themselves looking at a face of great interest, a pale ascetic face with sharp features, and a high intellectual forehead, as an observer noted: "a youthful edition of Cardinal Manning". He was clearly nervous, but his speech from the Socialist point of view was excellent. Though admitting himself to be a Free Trader he confessed that sixty years of Free Trade had failed to ameliorate the conditions of the working classes, and members were amused by his references to "these useless and unnecessary landlords". He employed none of the hackneyed arguments against tariffs, cocked no common fiscal blunderbuss. One of his arguments was that our products would easily triumph over foreign duties, if it were not for "these useless and unnecessary landlords" with their mining royalties, but the satisfaction which Ministers felt at this part of his speech yielded to annoyance when he went on to propose Socialist legislation. But it had been a good speech; he had made his points well, and thrust them home with determination, although his voice was metallic and his wealth of gesture a little luxuriant.

Then the Speaker called upon Mr. Frederick Smith to address the House. Smith was sitting just behind the Front Opposition Bench on which Mr. Balfour and Mr. Chamberlain were apathetically lounging. He rose to his feet: he was tall and slim, with coal-dark hair, the colour of which seemed to emphasise the pallor of his face—hair oiled and smoothed into an almost Latin brilliancy. The cheek-bones were high, the mouth contemptuous, with that short upper lip which lends venom to the smoothest sentence: the figure lithe and perfectly dressed, the eyes black and tired, the appearance languid. The clinging coat-tail cul-

minated in a gay buttonhole, and a tall collar. The dark eyes and the scornful mouth held not the slightest expression. T. P. O'Connor had been observing this young man for several weeks, and said: "They might have been the eyes of a man who had watched with sleepless though furtive vigilance all the great drama that was being unfolded in that astounding new House of Commons, or they might have been just beautiful and shallow eyes that concealed no depths, because there were no depths to conceal. He stood for a moment aloof and silent, and the eyes retained their strange look of sombreness; on his face was a look of supreme boredom and contempt."

He looked like a young man of fashion who had wandered into the House on his way back from Ascot. He was thirty-three, but he looked far younger. Even the members of his own party had for the most part not the slightest idea who he was, or suspected that from him there were, in a moment, to pour forth cascades of satire in shooting lime-lit jets. He did not betray the slightest nervousness, but thrust his hands into his pockets and leaned with easy informality over the heads of the men in front of him. He surveyed the packed Liberal benches with sneering mouth and an expression of profound distaste.

The Conservatives, seeing this unknown youth rise at such a moment, uttered murmurs of surprise and dissatisfaction. "Who is this boy?" they asked; "haven't we got anyone better?"

When the Speaker called the name two men had risen simultaneously, for there were two Frederick Smiths in the House. F. E. Smith turned, and waved his rival down, but he refused to give way. Then the Speaker said "This Mr. Frederick Smith," indicating F. E., and the other sat down.

It was an unpromising beginning, and the House was restive; but he began to speak in a clear vibrant voice, as a witness said, "directing his voice straight on his lips, making the articulation extraordinarily distinct". It was a charming voice, a rich but resonant whisper. He turned the phrases on his tongue as though he were tasting some rare bouquet. Mrs. Smith moved nervously in the gallery as the familiar voice began. There was no particular rise and fall about the voice; the lips made what variations there were, and the diction was perfect. When he had spoken for a little while, the House stirred, and he possessed it.

His listeners missed the appeal to their indulgence, for he considered that the request for indulgence could only come gracefully from lips that made a modest uncontroversial appeal, and he did not intend to make such an appeal. He began an acid attack on the Government, and the methods by which it had won the election. Every sentence held the sting of an adder, but the speaker himself remained absolutely impassive, and the roars of laughter which greeted his gibes brought not the flicker of an answering smile to the look of weary contempt on his face.

He began by a criticism of Mr. Snowden's predatory proposals at the expense of those who owned land, and said :

"When I hear vague and general proposals put forward at the expense of large incomes, without any precise explanation as to the principles upon which, or the extent to which, those incomes are to be appropriated or tapped for the service of those who are less fortunate, I should like to make an elementary observation, that there are very few members of this House, whether in Opposition or on the benches opposite, whose principal business occupation it is not to provide themselves with as large an income as they possibly can."

"All great political parties", he continued, "have skeletons in the cupboard, some with manacles on, some with their hands tied behind their backs.¹ The quarrel I have with hon. gentlemen opposite is that they show an astonishing indelicacy in attempting to draw our skeleton into the open: not satisfied with tomahawking our colleagues in the country, they asked the scanty remnant in the House to join in the scalp dance."

He turned on Mr. Austin Taylor who had stood as a Conservative candidate for the East Toxteth Division of Liverpool at a by-election in November 1902, and had been elected. At the general election of 1906, he stood as a Unionist Free Trader, and was returned unopposed. Soon after Parliament assembled he crossed the floor of the House, and had since remained a supporter of the Government :

"We were particularly pleased", continued Smith, "with the remarks which fell from the hon. member for East Toxteth, for he entered the House, not like his colleagues on the crest of the wave, but rather by means of an opportune dive; everyone in the House will appreciate his presence, because there can be no greater com-

¹ A reference to Liberal propagandist cartoons depicting the Chinese coolies.

pliment paid to the House than that he should be in our midst when his heart is far away, and it must be clear to all who know the hon. member's scrupulous sense of honour, that his desire must be at the present moment to be among his constituents, who are understood to be at least as anxious to meet him."

There came a shout of laughter, as sweet as nectar to the speaker, but his features did not relax in the slightest from that look of fixed scorn. Mr. Balfour's apathy fell from him, and he rolled about on the Front Bench in delight, Mr. Chamberlain's austere mouth melted into a broad grin, and Sir Edward Carson was so happy as to look "almost human".

Then Smith took the words of the resolution, and made successful play with the word "unqualified" which had been used in it.

"In the first place we are asked to recognise the merits of what is described in an obscure prescriptive principle as Free Trade, and in the second we are invited to register the proposition that the country gave an unqualified verdict in its favour. The word 'unqualified' is in itself ambiguous, and may have more than one meaning. If we say that a man is an unqualified slave, we mean that his condition can honestly be described as completely servile, and not merely semi-servile. If on the other hand we say that a man is an unqualified medical practitioner, or an unqualified under-secretary, we mean that he is not entitled to any particular respect because he has not passed through the normal period of training or preparation. It is, on the whole, probable that the word is used in the first sense in the present motion. But perhaps it is necessary to distinguish even further. When hon. gentlemen opposite are successful at the polls it is probably used in the first sense. In the comparatively few cases in which I and my friends were successful it is used in the second."

Then his satire flickered like a flame through the Liberal benches. First he disposed of Herbert Paul, the "Second Asquith" and the wit of the Liberal back-benches, who had described protection as a "rotten stinking carcase".

"Hon. gentlemen opposite are, in fact, very much more successful controversialists than hon. members on this side of the House. It is far easier, if one is a master of scholarly irony, and a charming literary style, to describe protection as a 'rotten stinking carcase',¹ than to discuss scientifically whether certain limited proposals are likely to prove protective in their incidence."

¹ A phrase used by Herbert Paul.

Then he shot at an antlered stag.

"It is far easier, if one has a strong stomach, to suggest to simple rustics, as the President of the Board of Trade did, that if the Tories came into power they would introduce slavery on the hills of Wales."

Mr. Lloyd George jumped to his feet in a dead silence, and gave a furious thump on the dispatch box and said angrily: "I did not say that!" Members looked at Smith, expecting him to be crushed by this denial, but he went on coolly:

"the hon. gentleman would no doubt be extremely anxious to forget it, but, anticipating a temporary lapse of memory, I have in my hand the *Manchester Guardian* of January 11, 1906, which contains a report of his speech. The right hon. gentleman said: 'What would they say to introducing Chinamen at 1s. a day in the Welsh quarries. Slavery on the hills of Wales! Heaven forgive me for the suggestion.' I have no means of judging how Heaven will deal with persons who think it decent to make such suggestions."

There had never been such a score over a Cabinet Minister by a maiden speaker; the Opposition rocked with delighted laughter at Mr. Lloyd George's discomfiture, and at the ready retort which had silenced him.

Then Smith sent a shaft in Mr. Churchill's direction:

"Did the hon. member, the Under-Secretary for the Colonies, use his great and growing influence on behalf of what he knew in his heart to be the truth? I say 'on behalf of what he knew to be the truth', because the hon. member is reported in the *Manchester Guardian* as having said on January 12, 1903, that he was quite sure that supplies of native or Chinese labour would have to be obtained for the mines in the interest of South Africa as a whole. I will not weary the House with the whole of the Under-Secretary's peroration. I think it has been at the disposal of both parties in the House, before undertaking a provincial tour. Mr. Speaker, it is easy for the Under-Secretary to come to the House and state in the debate on the Address that he attempted to confine the issue at the election to the single point of Cobdenism, to the single merits of Free Trade, and that he had therefore no responsibility for an incendiary campaign. To that I reply '*proximus Ucaligon ardebat*', which I may venture to construe: '*proximus*' in an adjacent constituency, '*Ucaligon*' the right hon. and learned gentlemen, '*ardebat*' was letting off Chinese crackers." (Loud laughter).

His bolt passed next under the inadequate harness of Mr. Chiozza Money, who had displayed certain articles of food in

his constituency in order to reinforce his diatribes against Protection.

"I must, however, in candour admit that the question of cheap food was brought forward in many constituencies with great persistency and ingenuity. The hon. member for North Paddington, with an infinitely just appreciation of his own controversial limitations, relied chiefly on an intermittent exhibition of horse sausages as a witty, graceful and truthful sally at the expense of the great German Nation."

The Opposition were now cheering every sentence. Great gusts of laughter passed over the House; the speaker remained completely immobile. The tall bent figure stood there looking down upon the House; only the lips moved, and from them in a passionless, slightly monotonous drawl came forth this astonishing flood of invective. Snowden, freed from the anxiety of his own *début*, watched the scene entranced. Next day he wrote:

"It was a piece of comedy more admirably acted than can be seen on the stage for many long moons. The speaker was absolutely impassive and immobile. The roars of laughter, which nearly every sentence called forth, brought not the faintest ripple of a smile into the look of supreme contempt which covered the speaker's face. The Tories were sent into ecstasies of hilarious joy. The members of the Front Bench, Balfour, Chamberlain and Wyndham, lost all the restraint of dignity, and gave themselves up to convulsions of enjoyment."

He set them subtle traps, and covered them cleverly with brushwood, and the Liberal elephants blundered into them one by one:

"I do not suppose that now the fight is over, now that the strategy has been so brilliantly successful—away from the licence of the platform where their statements can be met and dealt with—hon. gentlemen will deny that the immediate effect of a two-shilling duty on corn will be an illimitable development of colonial acreage suitable for the growth of wheat. (Cries of 'Oh, oh,' and loud derisive laughter.) I am astonished to hear sounds of derisive dissent, for I rather thought that at the time that Lord Rosebery—from whom I am quoting with verbal precision—made that prediction to frighten the British farmer from tariff reform, hon. gentlemen were in the same tabernacle, or furrow, or whatever was the momentary rendezvous of the Liberal party. . . . I venture to ask hon. gentlemen to tell us in the candour of victory, whether anyone really doubts that Canada would in a few years be able, under judicious stimulation, to supply the whole English consumption of wheat. (Cries of 'No, no!') Sir Wilfred Laurier

says it can, and hon. gentlemen say it cannot. Perhaps the Under-Secretary for the Colonies, whom I am sorry not to see in his place, will put Sir Wilfred Laurier on the black list with Lord Milner, and refuse to protect him any longer. Does the House recollect La Fontaine's insect, the species is immaterial, which expired under the impression that it had afforded a life-long protection to the lion in whose carcase its life was spent?"

He demanded what explanation there was, apart from the need of fiscal change, which explained the growing poverty of the poor. There were cries of "The War!" but he retorted that the conditions were anterior to the War, and he added:

"While the only panacea which hon. gentlemen opposite can suggest is the employment of broken-down artisans in planting trees and constructing dams against the encroachment of the sea, the Unionist party need not be discouraged by their reverses at the polls. We will say of the goddess who presides over the polls, as Dryden said of fortune in general:

'I can enjoy her when she's kind,
But when she dances in the wind,
And shakes her wings and will not stay,
I puff the prostitute away!'"

Then his most skilfully baited trap was sprung. He continued:

"Was the verdict unqualified, having regard to the aggregate number of votes polled on behalf of Liberal members? The votes polled at the last election for Liberal, Labour and Nationalist candidates were three million, three hundred thousand, while those polled for tariff reform candidates and other gentlemen sitting around me were two million, five hundred thousand. (Cries of 'No, not true.') I gather it is suggested that my figures are wrong. (Cries of 'Yes.') They probably are, I took them from the Liberal Magazine. (Laughter.) Probably the Minister of Education (Mr. Birrell) was responsible for them before he gave up the hecatomb¹ line of business, for the Christian toleration and charity department." (Loud laughter.)

Later he said, amid roars of laughter mingled with angry shouts:

"I have heard the majority on the other side of the House described as the pure fruit of the Cobdenite tree. I should rather say that they

¹ Mr. Birrell had during the war in 1902 used the phrase "hecatombs of slaughtered babes".

were begotten by Chinese slavery out of passive resistance, by a rogue sire out of a dam that roared.

"The Free Church Council", he added, "gives thanks publicly that Providence inspired the electors with the desire and the discrimination to vote on the right side. Mr. Speaker, I do not, more than another man, mind being cheated at cards, but I find it a little nauseating, if my opponent then publicly ascribes his success to the partnership of the Most High!"

Then he came to the peroration; his voice gathered intensity and force, and his face became more animated:

"What the future of this Parliament holds in store for hon. gentlemen opposite, I do not know, but I hear that the Government propose to deny to the Colonial Conference of 1907 free discussion of the subject which the House is now debating, so as to prevent the discussion of unpalatable truths. I know that I am the insignificant representative of an insignificant numerical minority in this House, but I venture to warn hon. gentlemen opposite that the people of this country will not readily forget or forgive a party, which in the hey-day of its triumph denies to the infant Parliament of the Empire one jot or tittle of that ancient liberty of speech which our predecessors in this House vindicated for themselves at the point of the sword."

He sat down and the Opposition shouted itself hoarse, for out of that beggarly minority, crushed almost beyond the instinct of retaliation, there had emerged a man who dared to challenge the Liberals and make war on them with a laughter that glittered and cut. A memorable scene followed. His own Front Bench turned round to congratulate him, and a crumpled note was passed down the benches from Mr. Tim Healy, the Nationalist member, and the finished master of Parliamentary shock tactics, saying:

"I am old, and you are young, but you have beaten me at my own game."

Mrs. Smith, sitting thrilled in the gallery, looked down upon a House humming over the *tour de force*. F. E. rushed up to speak to her, and to say good-bye, for he had an important case next day in Chester and was leaving by the midnight train. Mr. Lloyd George, replying for the Government in his first speech from the Front Bench, said, "We have just listened to a very brilliant speech."

F. E. Smith saw his profound belief in his own powers triumph-

antly justified by trial. As Mr. Garvin wrote years later: "he spoke for an hour, and put the House in his pocket." When he sat down his Parliamentary reputation was made. There were not wanting critics who, while praising the speech, said that it had contributed no knowledge to the debate. This was true. There was no attempt to produce a serious debating argument against the motion. The speech consisted of a brilliant cluster of impertinences, about the manner in which the election was won, and the records of different Liberals in that election. But this was no unintentional oversight: it seemed to Smith that his party was absolutely in despair. It had suffered one of the greatest disasters of its history at the polls, and the insolent Parliamentary manners of that swollen majority had had a cowering effect upon it. Conservatism needed a *pique de cœur*. Smith's speech was designed not only to rivet attention to himself, but also to stiffen his colleagues, and breathe life and passion into the attack on the Government. He thought it, therefore, no time for a scientific analysis of the fiscal question; that could come later—just as he thought it no time to ask for indulgence, but rather to speak with all the concentrated insolence of which he was capable, and risk the worse consequences.

He did not fully realise how great a sensation he had stirred until he stopped at Chester and bought all the papers. Every paper displayed captions such as: "New Tory Orator." The expression "rising hope of the Tory Party" was filched from Lord Randolph and bestowed upon him. The sensation was immense and there was hardly a dissentient voice. A few extracts will be sufficient to show how public opinion was stirred. Mr. G. D. Faber, later Lord Wittenham, wrote in *The Times* long after:

"... from those lips, for something like three-quarters of an hour words came forth with unerring and remorseless certainty. There was no external sign of nervousness: at the end of ten minutes that voice and that personality held the House. There were no jeers from the other side of the House, but plenty of cheers from ours. Light badinage and cutting sarcasm came with equal dexterity in that even magnetic voice which never faltered or failed. It was a long, sustained, *tour de force*, which captivated and held friend and foe alike. His logic was inexorable, his denunciations were wonderful, his satire played like forked-lightning. I had heard many maiden speeches, and I have heard many since, but this one stood and stands alone in

my memory. The young new member who had been sitting beside me with his parliamentary fortunes to make, rose a new member with his parliamentary fortunes made. He had not to wait till next morning to wake and find himself famous. He became famous there and then."

Harold Gorst wrote :

"Seldom has such a scene been witnessed as took place when Mr. F. E. Smith addressed his maiden speech to the House of Commons. He was certainly not an undistinguished figure as he got up from his place just behind Mr. Balfour and caught the Speaker's eye. Tall, clean shaven, with black hair and magnetic eyes almost as dark in hue, with a trick of bending forward as if addressing an audience from a high platform, he impressed those who noticed him for the first time with the premonition that he possessed unusual intellectual gifts. When he began to speak the House was captivated by the richness of his voice, and when it found him reeling off witty and original epigrams with easy fluency and perfect self-possession at the expense of the Government, its delight knew no bounds. Mr. F. E. Smith kept it up for an hour, and all the time members, ministers and ex-ministers leaned back and abandoned themselves to laughter, indignation, and all the other emotions called forth by the speaker's wonderful command of his audience."

The *Outlook* spoke of "the most brilliant maiden speech made in the House of Commons in living memory", but several other papers described it as the greatest maiden speech of all time.

We can easily understand the exultance which filled him as the train rushed northward through the dark fields. His whole life had been a preparation for this moment of dizzy triumph. All the day-dreams, all the most potent ambitions that raced through his mind as he sat in his room at Wadham on long winter nights had spelled out empire in Parliament as their real, their cherished consummation. Then those disputatious evenings in which we have watched powerful but immature minds clashing in debate, taking each other's measure, inveighing without mercy, constructing the artillery of speech, leading on to the more measured and formal duels of the Union, all these were parts of the slow progress towards the same goal. His ambition had never faltered in the direction in which it beckoned him; even the barrister was blinded by the new glare which beat upon the politician.

His success in Parliament brought him at once into social

prominence, and the Tory salons opened to receive him, but he sipped the heady wine carefully, and the fumes did not mount into his head. He made many acquaintances and laid the foundations of several abiding friendships. From the moment he sat down in the Commons after his maiden speech, he became the darling of the Tory hostesses, and he and his wife began to move easily across the bright background of Edwardian life—at a party at Evelyn Cecil's, when Mrs. Smith met Mr. Chamberlain, and found him so nice and "young looking" in the uniform of Trinity House—parties at Lady Londonderry's, greatest of all Tory hostesses, and pleasant weeks at Mountstewart. The parties at Londonderry House were brilliant, and Lady Londonderry's friendship to them was wonderful. Again it was a feverish life, pivoting between London and Oxford, where the crocuses were just springing into pert colour round Addison's Walk—hunting at Oxford and gaiety in London, with dinners at Lady St. Helier's, and lunch at the Desboroughs', where Mr. Asquith and Mr. Max Beerbohm wrangled pleasantly, and a dinner in May at Lady St. Helier's, where they met Thomas Hardy—then a week-end with the Desboroughs at Taplow Court, with the Chamberlains, the Russian Ambassador, Sir Ian Hamilton, and Max Beerbohm, when Lord Desborough punted them down that beautiful green reach of the river to Boulter's Lock in the cool of the evening, and Mr. Chamberlain had gout. There were evenings at Covent Garden in the great days of the opera, the auditorium crowded and the boxes full of lovely women in their glittering tiaras, and Lady Ripon the foremost of them all; there F. E. was taken, and lay back yawning while Caruso lifted his glorious voice in the passionate chords of *Pagliacci*.

There was a visit to Swanage with their little daughter Eleanor, who was taken for rides on donkeys, and taken down the dark tunnel of Tilly Whim Caves, and to the mysterious Dorset coast, once the haunt of smugglers, where she could climb rocks and search for guillemots' eggs and wander over the rugged hills, and a picnic to Studland with its broad flat beach and green crystal-clear sea that invited the swimmer. Then in August 1906 the lure of the West Indies beckoned them back to Jamaica: their ship ran into a hurricane and was drifted miles off its course. F. E. watched the majesty of the gale, lashed on deck with a cigar-case at hand, while his

sister-in-law was ill with such regularity that the Captain was said to set his watch by her collapses.

F. E., Henry Lygon, Harold Smith and Norman Chamberlain separated from the others, and went to explore the island of Cuba. They halted at a town in the interior, called Camaguey : it was a tranquil Sunday morning, and each time the train stopped they could hear the peaceful chime of church bells, summoning the villagers to prayer. Harold was strongly moved, and his mind flew far away to the bells in his English home. Two facts struck Henry Lygon as curious in the sound of these bells: the bells' tone never varied, but the hour of the services seemed to vary strangely as the morning wore on. Later he found that the bell was hung on the front of the engine and was rung at every halt to hasten would-be passengers. They left Camaguey for Havana ; a revolution was in progress in Cuba, and as the train passed through territory occupied by revolutionary forces, civil guards were picketed on it. As the train rolled into the enemy zone the civil guard prudently deserted. F. E. and his party were playing bridge. The train suddenly came to a jolting standstill and they saw vague figures passing down the corridor. Then the train moved on again. These figures proved to have been the revolutionaries who had found nothing worth stealing or murdering, and had allowed the train to proceed. When they learned of their escape, F. E. at once concocted a Munchausen-like story. "We were in the utmost peril. Bullets were flying through the carriage from either side, splinters of glass and woodwork were flying in every direction. Henry Lygon was never very brave. He called to me, 'Duck, F. E., duck, for heaven's sake.' I answered : 'No, Henry, no. An Englishman dies, but he does not duck.'"

The reporters clustered round them at Havana, and pressed them for details of their adventures. F. E. drew one of them aside and conferred with him in a confidential undertone. Next day the headlines appeared :

MR. F. E. SMITH, M.P., ENGLISH CONSERVATIVE LEADER,
AND JOSEPH CHAMBERLAIN'S NEPHEW ARRIVE IN HAVANA.
EXCITING JOURNEY.

Such was the background of their lives after F. E. had established himself in the House of Commons.

XIII

THE TRADES DISPUTES BILL (MARCH 1906)

WE must now retrace our steps to March 30, when F. E. Smith made his second speech, but first we must ask what he thought of his new environment.

He had experienced none of that bitter disillusionment in which the ambitions of many a new member are so cruelly extinguished. His swift success in debate had strengthened his first impressions.

"I was immensely struck", he said, referring to that occasion, "with the great kindness and indulgence with which I was listened to as a new member by every section of the House, and not least by my opponents on the Government side, whose consideration was all the more gratifying, because, as you may remember, I was hardly conciliatory in my remarks. I like parliamentary life extremely, as I always anticipated that I should, and my ambition turned in the direction of St. Stephens as soon as I began to have any ambition at all."

To him the most impressive feature of the House was its inexhaustible appetite for work ; he saw its capacity for mischief, but observed that this was a danger which sprang from an excess of zeal. He was also impressed by the dignity of the Labour members, whose conduct might have been imitated with advantage by certain sections of the Ministerial majority. What did he think of the proposed legislation of the future ? He was strongly opposed to the Education Bill, and so deeply convinced of its blind injustice as to be confident that it could not become law in anything like its present form. He thought it possible that matters involving the relations of Church and State might become critically prominent in the near future, and the fact that every member of the Cabinet was in open sympathy with the aims of the Liberation Society seemed to lend colour to the belief that the Disestablishment of the Church of England might soon be brought within the range of practical

politics. His own view on the question was both lucid and consistent; as a lawyer he was also an Erastian, and believed that as long as the Church remained established it was bound to submit itself in all matters of doctrine and procedure to the Judicial Committee of the Privy Council, and the fact that one great ecclesiastical section had resolutely denied this position would lend weight to the Radicals' demands for disestablishment. As a fiscal thinker he was still indissolubly wedded to the principles of tariff reform enunciated by Joseph Chamberlain; he was anti-Free Trade, root and branch, but he realised that the process of popular conversion must at best be slow, and that the country must pass through lean years before the idol of unilateral free trade could be finally dislodged.

F. E. Smith's second important speech in the House of Commons was delivered on March 30, 1906, and we shall find him on this occasion opposing Labour instead of Liberal pretensions, as set forth in the Trades Disputes Bill. He knew well the pitfalls that awaited him on this occasion. He realised that there were many who feared and some who hoped that the success of his maiden speech would betray him into a second exhibition of casual brilliance, and thus give the Opposition Press a pretext for dismissing him as an accomplished dilettante. His course lay between the Scylla of frivolity and the Charybdis of dullness. He had seen how swiftly the laurels of Herbert Paul had withered; for a moment the lights had beat upon him and the applause had crashed out, then he had slid back into the dark wings and disappeared. F. E. Smith knew that the crisis of his Parliamentary life had only begun with his first speech. Again he selected wisely an occasion which offered full scope for irony, but which yet did not exclude the necessity for analytic reasoning.

On March 28, 1906, the Attorney-General, Sir John Lawson Walton, introduced in the House on behalf of the Liberal Government a Trades Disputes Bill. Speaking on this occasion he drew attention to the absence in the Bill of a certain provision to which he described himself as entirely hostile, a provision conferring on Trades Unions immunity from actions of tort. It became immediately clear that on account of this omission, which broke the spine of the Bill from the point of view of Trade Unionists, the Bill was unpalatable to the Labour members, and on March 30 a Bill was introduced on their behalf containing

a provision which bestowed the desired immunity. Sir Henry Campbell-Bannerman, speaking in the debate, declared his intention of voting for the Bill in spite of the provision which Sir John Lawson Walton had criticised so strongly in the Government Bill. It appeared that the Government was on the eve of a discreditable *volte-face*, and it was clear to the acuter minds of the Opposition that the Liberals were by their action exposing themselves to unpleasant and legitimate criticism. When Smith spoke it was in the firm belief that the Liberals were about to surrender their principles and vote against their consciences for an amendment which they knew in their hearts to be wrong, for no other purpose than to ingratiate themselves with the Labour members, and because they dared not risk a rebellion which they might not be able to subdue. Smith saw that he held the Government in the palm of his hand, first because he could quote the words of its representative, the Attorney-General, when he introduced the castrated measure of March 28, secondly because Sir Henry Campbell-Bannerman had departed from these declared principles by deciding to vote for the new Bill as it stood on March 30. The Labour members themselves regarded the measure as a touchstone of the feelings of the House on this point, whether Trade Union funds should, or should not, be exempt from liability. This optimism was well founded, for the Government eagerly caught their mood, and showed complete willingness to acquiesce in the extreme Trade Union demand.

F. E. Smith was again *ex locis* and could cast his javelins from above. Nor was he only opposed to Clause III relating to immunity from actions of tort, but was, as we shall see, equally incensed at a later Clause which legalised peaceful picketing and persuasion.

The House paid him the compliment of an attendance more crowded than when the Prime Minister spoke, partly because they expected another shower of epigrams, partly because they were eager to see how the new member would pass the critical milestone of his second speech. When he rose to speak he met with a cordial cheer from all quarters of the House; he had set down a motion for rejection, but he soon keyed himself into such passionate earnestness that he forgot to move it. But his emotions were controlled; his face was again an impenetrable mask, his voice a bored drawl. In making his points in this speech he was immeasurably assisted by the justice of



CARTOON BY MAX BEERBOHM

Lord Alverstone (to Mr. F. E. Smith): "Experto crede, my young friend.
If you cherish—for no matter how remote a future—hopes of the Wool-
sack, put them from you."

Lord Halsbury in the foreground.

his own case. The facts were clear and could not be gainsaid: the behaviour of the Tories had been honest and correct; many had, like Smith, been asked in their constituencies without ambiguity whether or not they would be prepared to vote—not for a Trades Disputes Bill containing some ill-defined amendment, but for the Shackleton Bill, which represented the full desires of the Trade Union elements. He had replied with some reluctance, for the Bill was popular and he was eager to enter Parliament, that he could not support the Bill, and would be forced to vote against it. He remarked that there was scarcely a member in the House who had not been asked this unequivocal question. Then he gave his first thrust to the Attorney-General, saying that when the Labour men recalled the distinct pledges given by Ministerial leaders before the election, and had listened to the speech of the Attorney-General on the 28th in which those pledges were so abruptly and inexplicably ruptured, they might have adopted the simple and beautiful expression “enough of this foolery!” This angry phrase of the Prime Minister’s was still fresh in everyone’s memory, and the House bubbled with delight over its exhumation.

He passed to the question of peaceful persuasion, and here he was speaking on behalf of the many working men who did not belong to a Trade Union, particularly to those to whom his own obligations in his constituency lay:

“I have never heard that any petition was ever presented to the House, asking that working men who did not belong to a Trade Union might be subjected to ‘peaceful persuasion’, or that their dwelling houses might be beset by a hundred men to ‘give them information’. Nor am I aware that unorganised labour has ever indicated a clear desire that, if it sustained these or any analogous wrongs at the hands of organised labour, it should be cut adrift from those forms of effective redress which an equal system of jurisprudence has hitherto enabled parties injured before the law to exact from the persons who have wronged them. In this House Trade Unions are powerful and articulate. Unorganised labour, on the other hand, is weak, silent and suffering. No congress places on record its turgid resolutions . . . its very helplessness gives a special claim to the consideration and the protection of the House.”

Next he took the conspiracy clause of the Bill and the peaceful persuasion clause in conjunction with the remark that together they exposed the true pretensions of the Bill:

"We are asked to permit a hundred men to go round to the house of a man who wishes to exercise the common-law right in this country and sell his labour where and when he chooses, and 'advise him' or 'peacefully persuade' him not to work. If 'peaceful persuasion' is the real object, why are a hundred men required to do it? I know of no one who is more peaceful than the member for Merthyr, and I am sure that the Attorney-General would agree no man can be more persuasive. (Laughter.) If I were a man who was wishful to dispose of my labour as I chose, although the member for Merthyr might not persuade me to break a contract, still if the hon. member came with fifty other peaceful persuaders to the house where I and my wife live, I fear that I should be much more likely to yield to persuasion than if the hon. gentleman came by himself . . . every honest man knows why Trade Unions insist on a strong numerical picket. It is because they rely for their objects neither on peacefulness nor persuasion: those whom they picket cannot be peacefully persuaded . . . but though arguments may never persuade them, number may easily intimidate them."

When he proceeded to the question of immunity from actions of tort, it was clear that his most serious argument reposed in this part of the speech, and he examined the question of whether or not Trade Unions ever did enjoy the exceptional privileges which were now being claimed for them. There were cries of ironic laughter from the Liberals when he claimed to examine the question as a lawyer, but he retorted that the opinion on this point of anyone who was not a lawyer was not worth a brass farthing. The question was whether or not Trade Unions had enjoyed any such immunity before the year 1871. "I do not", said Smith, "ask the House to take my opinion on the matter—though," he added amid laughter, "at another time and for a consideration I shall be very pleased to give it"—but he referred instead to the words of that accomplished lawyer, the Attorney-General, who had quite recently assented to the view that historically speaking there was no foundation for this argument—and those of a distinguished Liberal lawyer, Mr. Cohen, who had delivered a precisely similar opinion. The Labour party had insisted that before the year 1871 there had existed a complete immunity for the funds of Trade Unions, but Smith replied that before that year no such immunity was known to the theory of the English Common Law:

"Before that year a Trade Union was merely an aggregation of

individuals, and if all those individuals were made parties in an action of tort and cast in damages, such property as they possessed could have been taken in satisfaction, including the Trade Union property. It was difficult, perhaps, to get at their property, but the difficulty was a physical, not a legal one. Since the Judicature Act and the well-known order of 1883 made pursuant thereto, a representative action has become possible on the common law side. The law thereafter was clear that a Trade Union could be properly sued in a representative action and their funds made liable for any damages in which they might be cast. No body of men in this country is able to establish a claim of immunity such as is put forward by hon. gentlemen below the gangway."

Then he slid gently into personalities. He said the most unpleasant things in the most mild and pleasant voice. He reminded the House in dulcet tones, and the point was a vital one—that the Attorney-General was one of the few men in the House with whom he felt himself in complete agreement both on the moral and legal questions which underlay the Bill, and he showed without mercy that the Government, in yielding to the demands of the Labour element, were about to commit an act which the Attorney-General had himself denounced, and which was at once an action of cowardice and sycophancy. The position seemed fashioned for ironic comment. Sir John Lawson Walton had said that the Trade Unionists would in their uncut Bill inflict injustice on individual members of the community; now the Government intended to be a party to that very injustice.

"They are about to create a privilege for the proletariat," said Smith. "They are about to vote for a measure about which the Attorney-General has spoken in language which hon. gentlemen below the gangway will not soon forget, whatever the fate of this measure may be. Let us not hear from benches opposite, or at least from the Treasury Bench, any more talk of opportunism or political cowardice."

He went on earnestly and amid cheers :

"We on this side of the House will be voting for what we believe to be right, although it may do us harm in the country. We are incurring this risk because we think it is right, but the front Ministerial Bench are doing what they believe to be wrong, because they think it will do them political good."

Then he said smoothly, and with the air of one paying a stately compliment :

"We have driven the most powerful Government of modern times into the open, and after all the Colossus has feet of clay."

Then with biting sarcasm, and amid growing laughter and anger, he congratulated Mr. Keir Hardie on his converts.

"The House, the Party, and the country asked the Government for a lead, and the Government put up the Attorney-General to say that they are better at following. They hated the Bill; they were

'Willing to wound, and yet afraid to strike,
Just hint a fault and hesitate dislike.'

I congratulate the hon. member upon the captures he has made upon the Front Bench. He may say with Touchstone, 'the Treasury Bench is my wash-pot, over the Attorney-General have I cast my shoe.'"

There was loud laughter, which rose to a crescendo when he continued:

"I compliment the hon. member upon his victory. He is entitled to say as he looks at each individual victim on that bench, 'a poor thing but mine own.' The Attorney-General on his part may say to the hon. gentleman in the words of Princess Ida:

'Ask me no more, dear love,
For at a touch I yield.'"

Members stared at the Attorney-General, who sat "smiling a sickly smile, and twiddling his keys". Then serious again, Smith wound up:

"The Opposition—whether the result proves in the event to be a political advantage or a political misfortune, at least in a time of unexampled stress to every man who was anxious to win his way into the House of Commons—said that they would vote against this measure. But the occupants of the Government benches are voting for this Bill against their deliberately formed and twice-repeated convictions, because they dare not face a mutiny which they cannot quell, an example which, whether or not it prove favourable to their advancement at the polls, will not tend to raise the standard of public morality either in the country or in the House."

Mr. Horridge, the Liberal member for East Manchester who followed Smith in this debate, and Mr. Keir Hardie, both accepted the challenge. Horridge, still smarting under Smith's references in his maiden speech to "the aged elector in the hungry

forties who subsisted on an unrelieved dietary of hedgehogs", remarked acidly that he would be interested to see how many of "the somewhat microscopic body of stalwarts" who surround Smith would have the courage to go into the lobby and vote against a measure which they knew was desired by the good feeling and good sense of the country. He accused Smith of failing to read the Bill, for if he had read it he would have found that Clause III extended exactly the same privileges to the Employers' Associations as it granted to the Trade Unions—and he claimed that the Labour members had asked for no privileges.

Smith at once rose and said coolly amidst cheers and derisive Ministerial cries that he did not suggest that the words of the section were not capable of including associations whether of employers or men, but that the only privileges given in this Bill to Associations of Employers were to do two things which in no conceivable circumstances did they want to do.

The Bill, as amended in the Labour sense, became law in that session. But it did not for a moment reconcile the Labour party to Liberal domination, as the Government had hoped. Rather did it open the way to new and graver controversies and encourage the wilder Socialists to promote strikes with political aims on a larger and larger scale until in the General Strike of 1926 they found their Waterloo. F. E. Smith, as we shall see hereafter, was to play a leading part in that tragedy—the direct outcome of the Liberal surrender of 1906.

XIV

THE EDUCATION BILL (1906)

DURING these early years in Parliament he interested himself particularly in the questions of Education and Licensing, offering a sustained opposition to the principles of the Bills which were introduced on these subjects between 1906 and 1909.

Of these two subjects, that of Education was the most keenly fought. The controversy, bitter and protracted, sprang from the Education Act of 1902, which was passed by the Conservative Government and introduced by Mr. Balfour, then leader of the House. He pointed out, first that there were two sorts of elected authorities dealing with Education—the county and borough councils supplying technical and secondary education, and the school boards supplying elementary education, and secondly that the voluntary schools were not organised, were not in connection with the authorities named, and must be supported. The Bill was designed to provide a single authority for education, which was to be the rating authority, and to bring the voluntary schools into the new scheme and so help them to play their part.

The new authority would be the County Council in counties or the Borough Council in county boroughs, working through Education Committees partly nominated. They could impose a second rate for Secondary Education, above rates for Technical and Elementary Education. The boroughs over 10,000 population, and urban districts over 20,000 which had control of technical education, would continue to have it, and might also be the local authorities for Elementary Education. The local authority would share the control of secular education in voluntary schools by appointing one third of the managers, who were to keep the buildings in repair and make reasonable alterations at their own charges. If a new school was wanted the department must decide whether it should be sectarian (non-provided) or State and unsectarian (provided).

Sir Henry Campbell-Bannerman, following Mr. Balfour, hoped that there would be "real and popular control of Church schools" and predicted that the Bill would fail if it was too favourable to the Church. The Bill had a first reading of 176 to 23. But C.B. had gauged the seriousness of the controversy which was to rage for the rest of the year and to show the bitter hatred and jealousy of the Nonconformists for the Establishment. They attacked the Bill as "a fresh endowment of the Church", and "the permanent institution of religious tests for the teachers in the church schools". Then began the agitation by which Nonconformists were urged not to pay school rates, the leaders in which were Robertson Nicoll, Joseph Parker, and the celebrated Dr. Clifford. Politically it was ominous that many Liberal-Unionists, mostly Nonconformists, were uneasy, particularly in the Birmingham area.

In the second reading debate, Bryce moved the rejection on the grounds that the measure was reactionary, that the school boards had been successful, and that County Councils were not fit to provide Elementary Education; Mr. Lloyd George spoke of the Bill as "riveting the clerical yoke on thousands of parishes"; Mr. Asquith said that it would increase sectarianism and not give the local authority any real control over the spending of the grants by voluntary managers, while Mr. Balfour, summing up, said that the only alternative to the Bill was to set up rural school boards everywhere and abolish the voluntary schools. The second reading was carried by 402 to 165 (May 8), the Irish Nationalists supporting it at the order of the Bishops. Then the Bill reached the committee stage on June 2, and was contested line by line to the end of the year.

Mr. Balfour tried to alleviate the fears of rural ratepayers by announcing an increased grant for Elementary Education. The optional clause was dropped—local authorities must do their duty in respect of elementary schools. The voluntary school was to be controlled by four voluntary managers appointed under the trust deed, and two managers appointed by the local authority. This again was bitterly contested. Conferences were held, but no compromise could be devised. Late in July the Opposition was encouraged by winning a by-election in North Leeds, where a Conservative majority of 2,517 became a minority of 758 in a contest fought on the Education Bill. The crusade against payment of rates was revived by Dr. Clifford, who drew a rather

fanciful comparison of his own action with Hampden's patriotic refusal to pay ship-money. The Liberal-Unionists grew more and more restive, but Mr. Balfour refused to give way. In the autumn session the duties of the voluntary managers were more fully defined, and their burdens limited. A compromise was effected by the Unionist and Low Church Colonel Kenyon Slaney's amendment—that religious education should be given in voluntary schools in accordance with the trust deeds and under the control of the managers as a whole. This was carried by 211 to 41, amid the violent protests of Lord Hugh Cecil and the High Churchmen. Mr. Balfour increased the new Elementary Education grant by another half million. The Bill was read a third time (December 3) by 246 to 123. In the House of Lords the aged Archbishop Temple lifted his voice for the second reading, then took to his bed and died, and the Bill received the Royal assent on December 18.

The co-ordination which this Bill established was urgently required, and has proved a complete success. Little attention was paid to this part of the Bill at the time. The Liberals were fomenting a sectarian violence which has no modern parallel in the attempt to disperse Chamberlain's following, and to attract Nonconformist votes.

It was on April 9, 1906, that Mr. Birrell introduced his famous Education Bill. It proposed that only those schools that were provided by the local Educational Authority should be recognised as public elementary schools, and that no other school should receive any help from rates and taxes. Every school which received rate assistance would become a provided school, and in them the only religious instruction that would be paid for out of the public funds would be the Cowper-Temple teaching. Those responsible for the instruction were not to be subject to any religious test, and all religious instruction was to be out of school hours. There were in existence, of course, thousands of voluntary schools. The local authority was to be empowered to negotiate with the owners of these schools in order to carry them on as "provided" schools. It was incumbent, too, on the local authority to provide special religious instruction for the children in these schools on two mornings a week if it was so desired by their parents, but this instruction was to be given out of the regular school hours, and was to be paid for by the denominations to which the

children belonged. These facilities were confined to the voluntary schools, and were not extended to schools which had always been provided schools. The local authority was also given power to grant special religious instruction to the children at any voluntary school in an urban area, which had been so transferred, if the parents of four-fifths of the children would publicly signify their desire for it.

It was inevitable that F. E. Smith should be in strong antagonism to this Bill. His rôle in previous debates had been that of a laughing critic: now we shall see him emerging as a deadly serious and destructive debater. He was not unsympathetic to the claims which were made by Roman Catholic members such as Mr. Dillon and their co-religionists, but considered that unless those claims were made impossible by a cast-iron wall of principle, then the representatives of the Church of England in the House were equally entitled to claim them.

He said:

"If there is some cast-iron wall of principle which prevents you making these concessions to the Church of England, then you are guilty of a pusillanimous repudiation of this principle if you extend such concessions to hon. gentlemen sitting below the gangway in flat contradiction of everything said at the election, and of the plain issue upon which, we are told, the vote of the country was given."

He proceeded into an argument, swift and lucid. Mr. Birrell had observed, in introducing the Bill, that it embraced two great principles—first that it would produce a national settlement on this question, and secondly that it would make for simplicity in the schools. Both these claims were unsound, as Smith quickly showed:

"The deplorable speech of the President of the Board of Trade", he said, "was hardly calculated to assist a settlement. He told us, and the phrase in its application was destroyed by the right hon. member for West Birmingham—that democracy had pronounced clericalism to be the enemy. I do suggest that if you sit in this House, as so many do, as the results of oratorical efforts on the platform by battalions of Nonconformist ministers, it is not wise, it is not decent and surely it is not grateful, to tell the House that the enemy democracy has to fear is clericalism."

Inviting the House to bear in mind the statement of the President of the Board of Trade, Smith quoted the answer of the Attorney-General for Ireland, who also sat for a Liverpool

division, to a Roman Catholic who had asked him whether, if returned, he would vote for such a Bill as was now under discussion. He did not say that as a democrat he regarded clericalism as the enemy, but replied :

"I have already, I think, answered the question in my election address satisfactorily to Catholics, and I need only repeat here that I shall do all I can to preserve for Catholics in any Education Bill which the Government may introduce the right to have their children educated in their own faith. I think that is all they ask for, and any reasonable person of any religious conviction must admit the reasonableness of that demand."

It appeared to Smith the height of cynicism for one member of the Government to come down to the House and say that in the mandate of democracy clericalism was the enemy, and for another member of the Government, "even an Irish Attorney-General who was concerned to become a member of the House, and to conciliate the feelings of those who were likely to become his constituents", to come to the House to argue that Roman Catholics should have their religion taught in their schools by persons of their own denomination, an argument very unlikely to combat the influence of clericalism.

He exposed the incredible claim that the Bill would make for simplicity in the schools by pointing out that having found in existence two types of school, the Minister for Education was proposing to leave four, provided schools, facility schools, special facility schools and excluded schools, a result which must inevitably complicate educational machinery instead of simplifying it. He said, smoothly but with deadly gravity and scorn : "the Bill will fail, not only on these grounds, but on grounds that go deeper still, because it is not a compromise or a concordat, but a brutal dictation of terms." There were cries of "No, No !" but he waited, and then resumed :

"I venture to think that when the clauses of this Bill are examined, and the principles tested, not in the light of what has been said below the gangway on the Opposition side, or in the light of what I and my friends say, but in the light of those who have been held entitled to speak for the Liberal party in times past, judged, I say, even by those tests, it must be pronounced a brutal dictation of terms. You must re-write the old reflection, and say, 'Thus conscience does make bullies of us all.'"

The House laughed loudly over this emendation, but Smith remained serious. He quoted Mr. Haldane's written words in 1902 :

"If the Liberal party came into power to-morrow, and tried to establish a general school board scheme, it would find itself in an even more serious position than that in which Mr. Gladstone was in 1870, when with a huge majority he failed to accomplish this very thing."

This, he considered, agreed perfectly with the accusation that the Bill was a brutal dictation of terms. Dissent was, in fact, being endowed, and the system being restored which Gladstone had stigmatised as the "popular injustice of undenominational instruction".

He referred to the speech of Mr. C. F. G. Masterman, the member for North-West Ham, who had stated publicly that the Government had no mandate to stamp on the country one form of religious teaching, and that to attempt to deal with it in this Bill was to load the dice :

"Do not hon. gentlemen think that when one of their number returned to this House to support them describes their policy as a loading of dice, there may not be some ground for saying it is a dictation of terms ? . . . Surely you can realise that you are imposing by Act of Parliament on the majority of this country and forcing them to pay for a creed which is not their creed ? "

He spoke as one who was attempting to make plain to the House the view that was held by the majority of the clergy and laity of the Church of England, and warned the House not to under-rate the force of the opposition of the Church of England, or to dismiss it as being merely the agitation of the Bishops, but to remember that behind the episcopal protests was the full force of the laity of that Church.

The House had been frequently told by Liberals that the whole position had altered, but Smith recalled the decision of 1870 and the compromise which was then arrived at by all parties. It had been found necessary to establish a universal school board rate in which Roman Catholics, Jews and Anglicans had to be rated. This compromise had then been considered as a permanent compromise with the two Churches, and could not have been passed without the support of the Anglican Church. In return was given the assurance that voluntary schools should be permanently incorporated into the educational

structure of the country. He denied absolutely the argument that in 1906 a new principle had come into play, and criticised strongly the theory that the real remedy for the grievances of the past was that children should not be compelled to attend school during the hours in which religious instruction was being given. Then he turned upon Mr. Lloyd George :

"The President of the Board of Trade", he said, "said that simple Bible teaching alone stood between the country and a secular education. What is the value of this barrier if you allow any child who would rather play in the playground to avoid religious instruction, to do so? I would ask the House to consider the advice given by the President of the Board of Trade in 1903 to the Welsh Councils in an interview given to the representative of the *Manchester Guardian* :

"Let all the children go out for a few moments, then let those who prefer the catechism to play return to the religious instruction while their playfellows are free to continue their play.' He had no doubt that the children would have such a regard for the apostolic succession as would draw them back to the school while the wicked went bird-nesting."

"If that is the spirit in which you are going to work, the less you talk about the value of the barrier against secularism, which you are erecting by this Bill, and the sacrifices you are thereby making, the better it will be for your reputation for sincerity."

He concluded amid loud Opposition cheers :

"I say, speaking for the rank and file of the party to which I belong, that we shall offer to this Bill at every stage a sustained opposition, both in principle and detail. In doing so we shall have as our hearers a larger audience than that which we address within these walls, and we shall look forward to an ampler division lobby than that which is about to register your fleeting triumph."

The Education Bill was a serious and technical subject. Smith had for the first time discarded the delicate ironies with which he had embroidered his earlier speeches in the House, and came forward with a serious and powerful debating argument. Inevitably there was an attempt on the part of a section of the Liberal Press to condemn the speech as dull, but the opinion was very general that by it he had established himself as a parliamentary debater of the first order.

"There can be no doubt now", said the *Leeds Mercury*, "of the ability and brilliance of this young lawyer. It is possible for a man, by great preparation, though he be possessed of no real gifts as a

debater, to make such a speech as that which first brought Mr. F. E. Smith to the front among the coming men in Parliament. But his speech to-night was in many respects superior to his first effort. He was absolutely unsparing in his dissection of his opponents; the speech was entirely destructive criticism, but it was superb in line. . . .”

The *Sheffield Telegraph* observed that the Education Bill was a serious subject, and that Smith was a serious speaker developing a powerful argument.

“Mr. Smith perhaps approached nearest a full statement of the case against the Bill of all the Tories who spoke, although several speeches contained a plea for the further extension of the four-fifths clause to cover more than the miserable 26 per cent. of Anglican Schools which could benefit by it in its present form. That clause was specially framed to exclude seventy-four out of every hundred Anglican Schools from the preferential treatment given to the homogeneous schools which was, as he pointed out, a gross piece of injustice inspired by animosity against the Church of England, and a fear of what the Catholics would do if the majority of the schools were taken away from them.”

Smith's manner on his feet impressed every one in the House. He was always, as in his first debate, exquisitely dressed, with the dark hair always oiled and smoothed. Members would watch him rise languidly from the Second Opposition Bench to address an excited House: when interrupted he would pause with a tired look until the shouts subsided: then would come a swift and crushing answer. He discomfited opponents by shrewd quotations from their own speeches. He was recognised as one of the most relentless fighters in the House, despite this shroud of artificial languor. It was an inspiring sight to watch him taunting and probing the angry squadron opposite, whipping in his darts like the *banderilleros* in the Spanish bull-ring. It was a suave voice, the voice of the perfect pleader, with a note at once persuasive and a little plaintive. So he would start unemotionally without parade or gesture. Then his argument would claim him; he would become intense and earnest, and his indignation would key itself up to a white-hot pitch; the chin would be thrust forward and the pleasant voice would gather force and meaning. Diffidence had never troubled him, and his confidence on his feet was soon to be complete. He still spoke too fast and was sometimes unable to discipline his

own fluency, so that even the shorthand experts in the gallery could not follow him. He would slowly assume a leaning attitude with both hands on the back of the Front Bench: the bland and rather sibilant voice would start to frame sentences charged with venom, but so courteous was the voice, and so suave the demeanour, that it took time to realise how bitter was the meaning.

THE VETO IN DANGER (1907)

IN February and June, 1907, F. E. Smith's interventions in the House consisted of bitter attacks on the Liberal proposals for House of Lords Reform. The second of these speeches was particularly powerful. In the King's speech of 1907 the following sentence occurred: "Serious questions affecting the working of our parliamentary system have arisen from unfortunate differences between the two Houses. My Ministers have this important subject under consideration with a view to the solution of the difficulty."

The other measures of social reform which the Liberal Government had sounded on silver trumpets, and the importance of which had been so frequently emphasised, were thrust into the background. On February 18, 1907, Earl Percy moved an amendment to the address in the following terms: "but humbly regrets that the social legislation declared by your Majesty's Government to be so urgent, should be postponed for the purpose of effecting revolutionary changes in the powers exercised by Parliament over the affairs of the United Kingdom, and in the constitutional relations between the two houses".

F. E. Smith spoke in favour of this amendment. He was astounded by the levity with which the Government contemplated this vital issue of constitutional reform, and the facile optimism with which they considered uprooting an institution coeval with the English monarchy, and enjoying the trust of millions of English people. Nor had the Government any decided method by which they proposed to deal with the situation. Smith discovered that there were no less than eleven separate suggestions put forward by the Liberals, the most popular of which was the proposal to restrict the veto, so that the Upper House should only be permitted to reject once a Bill passed by the House of Commons.

"The real truth", he said, "is that historically the efforts of the Liberal party to deal with the constitutional question have been vitiated by a complete disability to distinguish between the Liberal party and the people. They are not necessarily or constantly the same. They occasionally approximate one to the other, more than they do at other times. A most offensive habit which Liberals have, in dealing with this issue, is to talk of England as though it were a permanent Radical pocket borough, on much the same principle as a valet wears his master's clothes in the servants' hall."

There were cries of "Oh!" but he replied:

"Liberals have been attempting for two hundred and fifty years and more, without making substantial progress, to pass resolutions declaring that the House of Lords is useless, dangerous, and ought to be abolished. I am sure that the House of Lords is more than satisfied with the progress which the campaign against it has so far made. The agitation which the Government have in contemplation will surely not be more effective."

No illusion was to him more complete than that the existing House of Commons was the depository of the people's confidence. He alluded in this connection to that "offensive phrase", the people's House, which was so common in the mouths of a large number of Liberals. There were cries of "Why?" and he replied that the phrase was coined by Liberals in order to stimulate the belief that the Liberals were the divinely appointed guardians of the people. To explode such a belief he said that during Lord Melbourne's administration, when the rejection of the Irish Municipal Corporation Bill convulsed Ireland, and Macaulay judged that a final rupture between the two houses was certain, there were four years of bluster during which the Liberals declared that the people were being betrayed, but that at the general election that followed, those who said that the people had been betrayed and who threw themselves on the bosom of the people were themselves cast away, and the Conservatives were returned by a majority of 91. Later he said:

"The Liberal party has drawn too many cheques on the people in the last sixty years, cheques which have been returned marked 'no assets,' for much attention to be paid to the present pretensions. I may recall the repartee of Charles II when warned by his brother James that the people meant to assassinate him. Charles replied: 'They are hardly likely to assassinate me to make you King.' The

people of England are not likely to assassinate the House of Lords to make the Radical party King. I venture to think that they are similarly unlikely to assassinate the House of Lords in order to make the House of Commons King. Of all the delusions which obsess the minds of hon. gentlemen opposite, there is none more pathetic than that which leads them to the conclusion that the present House of Commons is the idol of the nation. For myself, I believe that the country is watching their proceedings with a mixture of apprehension and contempt. . . .”

He concluded his speech by demanding on behalf of the Opposition a clear and direct statement that the Government had definitely accepted the responsibility of constitutional reform, and professed himself satisfied and hopeful for the future if the Government had indeed added the embarrassment of this gigantic problem to the other details of social legislation which awaited its attention.

The question assumed a more definite shape on June 24, when Sir Henry Campbell-Bannerman moved in the Commons the following resolution: “That in order to give effect to the will of the people as expressed by their elected representatives the power of the Upper House to alter or reject Bills passed by this House should be so restricted by law as to secure that within the limits of a single Parliament the final decision of the Commons should prevail.”

The Prime Minister then announced for the first time the machinery with which he proposed to enfeeble the House of Lords. It was contained in a loosely worded resolution which he moved in the Commons, declaring the Government’s intention of embodying the new scheme in a statute, but adding that the Government would use its discretion as to when the Bill would be introduced. As the Prime Minister had often dwelt on the importance of this Bill, and had indeed described it as the greatest issue with which the country could deal, the vagueness of this sentence caused some comment. The plan itself was a clumsy and futile structure with an elaborate system of checks and counter-checks, which would have done credit to the Abbé Siéyès. It was designed to whittle the Lords’ veto down to complete impotence, by the introduction of a series of conferences between the two Houses. It was farcical in its complexity. When a Bill was thrown out by the House of Lords a small conference was to be held between an equal number of the

members of each House. If this conference proved abortive, the Bill would after a substantial interval of at least six months be re-introduced in the Commons, when it would be passed under closure, and sent to the Lords. Failure to pass the Lords would entail another conference and if no agreement was reached, the Bill would at once be sent back to the Commons, passed through its various stages, and sent back to the Lords, who would be told that unless they assented to it in that form it would be passed in their despite. Yet another, and one imagines a slightly jaded, conference was to meet to attempt an eleventh-hour agreement. If this failed the Bill was automatically to become law. Mr. Henderson, on behalf of the Labour members, moved an amendment to the effect that : " the House of Lords being an irresponsible part of the legislature, and of necessity representative only of interests opposed to the general well-being, is a hindrance to national progress and ought to be abolished ".

Mr. Lloyd George, speaking earlier in the debate, had dwelt with a break in his voice on the unrelieved misery of the slum districts, while the Attorney-General had incautiously, and in circumstances in which he thought that reporters were not present, said that the way to House of Lords reform lay through the red gates of revolution.

Smith seized at once on these admissions, and exclaimed that they formed a gloomy prelude to the Constitutional upheaval which would convulse the House for ten years. What would then happen to the pressing list of social reforms ? " Are you going to establish a revolution," he asked, " even when reporters are not present, without a long postponement of your schemes of social reform ? " The truth was, he believed, that the Liberals did not want to abolish the House of Lords when it opposed the people, but wished to abolish the people when they opposed the Liberal party, " an undertaking under democratic conditions of far greater difficulty ". He showed how foolish it was to regard the present House of Commons as the depository of the people's will, and the present proposal, as he saw, would mean that no matter what party was in a majority in the Commons, the decision of the House should at all times be taken as representing the voice of the people.

He was ready with a malicious interpretation of Mr. Lloyd George's eagerness for House of Lords reform. Mr. Lloyd George had been asked if and when a measure was going to

be passed for the disestablishment and disendowment of the Welsh Church. He had replied that such a measure was going to be passed, but that in the event of an appeal to the country every question must be subordinated to the prime issue of whether the peers or the people were going to govern the country. But he had added that Welsh disestablishment would be among the most prominent of the questions with which Parliament would deal in the new conditions.

“What is the privileged position which this overdone promissory note holds at the present moment? It is that after the Government has dealt with licensing, the land system, and a new Education Bill, a Bill for the disestablishment of the Church of Wales may be brought in: but is it not possible that the zeal and enthusiasm which the right hon. gentleman has thrown into the campaign against the House of Lords, are to some extent due to a desire to escape the effect of his promises to the electors of Wales?”

Liberals had often attacked the Upper House. Mr. Churchill had described it as one-sided, hereditary, irresponsible, absentee, but no man had dared to come into the open with a proposal to abolish it. The Prime Minister in introducing the present proposal had evaded this necessity, and was still proposing to entrust to it “important and responsible functions”.

“The President of the Board of Trade”, said Smith, “told us that Nonconformity is not represented in the House of Lords and that the House of Lords has plundered the country. Then end them. That is just what you cannot persuade your Government to do.”

Then Smith turned to Mr. Churchill and attacked him violently. Mr. Churchill, as members noticed, looked disturbed and uneasy. Smith had unearthed an article which Mr. Churchill had written for the *Nation* which he used with deadly effect.

“We do not ask”, he said plaintively, “for permanency from you, or constancy from Ministers, but we might have some degree of consistency as the fleeting weeks pass. For three weeks a man might hold the same view. Did the right hon. gentleman think at the time he contributed that article to the *Nation* that the best method of dealing with the House of Lords was to hold occasional sterile conferences with them? On the contrary the right hon. gentleman thought that Privy Councillors as well as peers should be made capable of exercising the full legislative privileges of the Second Chamber as they exist to-day.”

Mr. Churchill had gone on to say that the Crown should summon two hundred and fifty such people for each Parliament, and that writs of summons would issue from the Crown on the advice of Ministers. Smith turned to Mr. Churchill and said: "Is that still the right hon. gentleman's view?" Mr. Churchill tried to explain in some confusion, and said: "The hon. member will understand that I was only recommending one way which I deemed a smooth way of dealing with the House of Lords." Smith replied with a pained expression, amid loud laughter: "Surely the right hon. gentleman will not suggest at the time he wrote that article that he did not think that that was the most convenient method of dealing with the House of Lords? The right hon. gentleman in another place has observed that there are more ways of killing cats than by choking them with cream. I may be allowed to add that there are more ways of addling a political egg than by giving it to an Under-Secretary to sit on." [Loud laughter.]

He criticised bitterly the "solemn mummery of the conferences". In his judgment the conception of these conferences was futile, and their effect would be nugatory. Had the system been operative in such cases as the Education Bill, and it had been within the power of the Government to say to the Upper House that the Bill must be passed as it stood, there is little doubt that they would have done so. In this case it was idle to suggest that the Lords would have the power to alter by conferences any measure about which the Commons felt strongly.

Smith went on, blandly, waving a delicate finger in the direction of Mr. Churchill and Mr. Lloyd George:

"At some conferences I suppose the Under-Secretary of State for the Colonies and the President of the Board of Trade might easily—for in these days political rises are rapid—be two of the representatives of the Commons, and conciliatory representatives they would be. The Under-Secretary of State for the Colonies¹ would begin with a pleasant reference to the particular artificial methods by which the House of Lords representative might deal with his defective eyesight: the President of the Board of Trade² would suggest with polished levity

¹ Mr. Churchill had recently made a speech in the country in which he made an allusion to the fact that Mr. Austen Chamberlain was in the habit of wearing an eye-glass.

² Mr. Lloyd George had recently made a speech stating that the House of Lords was only fit for the scrap-heap.

that it was time the House of Lords was committed to the scrap heap. Does the hon. member seriously believe that men of first-class political ability, as many members of the House of Lords are, will be content to make themselves parties to a political farce of this kind?"

Then a militant note disturbed the even current of criticism:

"If I were a member of the House of Lords I would send the Bill back, and to be perfectly frank with the House I would continue to do so until I thought my personal safety was out of danger."

He believed, and stated clearly in this debate, that the total destruction of the Lords was preferable to this mutilation, for then at least its members could sit in the Commons, and he concluded:

"Desert, if you like, your schemes for social reform; dissipate, if you will, in your great majority the most powerful instrument for good ever given to the Government of this country by the people of this country. For myself, I place on record my belief that in the decade of convulsion which the Government invites, the Liberal party will find its permanent sepulchre."

During his first year in Parliament F. E. Smith and his wife had taken six hunters to Oxford and lived with Mrs. Furneaux. In July 1907 he leased a small hunting box in a hamlet called Charlton on the borders of Oxfordshire and Northamptonshire. The village is a cluster of thatched cottages in the heart of the Country, little changed since the day when Charles rode through it on his way to Edgehill. F. E. Smith loved the sleepy Midland shires, the woods and the stubble. Taking two seventeenth-century cottages on a long lease, he built them together, and panelled his rooms with dark oak. The place was so quiet and restful that it was a perfect refuge for him after the turmoil of parliamentary and legal work. Here he could rest in his garden in a silence only broken by the soothing sounds of the country, or ride in the cool of the evenings over a placid countryside like the background of an old hunting print, and his rides would take him to Rainsborough Camp, a perfect circle of trees on a vallum once held by Danes and Romans, a place which whispered the spirit of its past, or up gentle slopes and through green beech woods to Fair Rosamund's Bower.

THE LICENSING QUESTION (1908)

AS the Nonconformists sought to undo what was accomplished by Mr. Balfour's Education Act, so the Temperance party hoped to annul his Licensing Act. What passed for Temperance reform occupied much of the time of the House in Smith's second session. On April 26, 1907, we find Smith making a witty speech against local option, in moving an amendment to the second reading of the Liquor Traffic, Local Option (Scotland) Bill, a Bill which proposed to confer on the Scottish rate-payers the right of local regulation of the sale of intoxicants. A majority of three-fifths of the voters at a poll of rate-payers was to be enabled to pass a resolution prohibiting the grant or renewal of licences, while a mere majority was enabled to limit the number of certificates to be issued to three-quarters of the number existing at the date of the poll, and the resolution was to remain in force for three years. The amendment standing in Smith's name read as follows: "that this House declines to proceed further with a measure which, while leaving the right of supplying alcoholic liquor in clubs and dispensaries unrestricted, would deprive brewers, licensees, and the investing public of their property without compensation."

It had been pointed out by Mr. G. N. Barnes that in temperance legislation Scotland was far ahead of England. Smith admitted that this was so, so far as the number of statutes in force could be taken as an indication, but observed that from no quarter of the House had it been suggested that Scotland was more sober than England. There remained, therefore, only two conclusions: first, that the Scottish people were more naturally addicted to drunkenness than the English, "a proposition which I should like to hear honourable members commending to their constituents"; or secondly, the assumption that extra legislation in Scotland had not produced any improvement.

"What", he asked, "was the principle or criterion by which to judge legislation by which local option was to be introduced?" It was certainly not trust in the people, for the advocates of this measure only trusted the people "within the limits of their own preconceived prejudices". Speaking of the large areas in which the trade in alcoholic drinks had been almost suppressed by prohibition imposed by landlords, he said, "I entirely decline to believe that the people who live in those districts are satisfied without alcoholic refreshment any more than members of this House would be satisfied if they could not obtain it: I should like to see any Government, however great its majority, propose that in the smoking-room we should be denied constant opportunities of obtaining it. The most powerful Government of modern times could not last a week if that were proposed."

He continued an argument against prohibition. He contended that any measure which postulated the introduction of complete prohibition was open to every conceivable objection that positive experience could supply. He quoted the failure of prohibition in America; then having read several extracts, he resumed politely:

"But let me call as a witness an hon. gentleman opposite. The hon. member for the Woodstock division of Oxfordshire (Mr. E. N. Bennett) visited the United States last summer, and in an article in the *Nineteenth Century* he has given testimony that everyone will greatly value, as to the experience of prohibition there. At the hotel where he resided, no representation whatever could procure him any drink (I note in passing that my hon. friend evidently exhausted the arts of entreaty), and after dinner, being desirous of some alcoholic refreshment, he left the hotel to see if he could discover it in the town.

"In walking through the town, he passed a door which somehow suggested alcohol. . . . My hon. friend said that he entered a bar and obtained drink; it was only a glass of beer—but half a dozen other persons were drinking and flasks of whisky were freely sold to disreputable persons afterwards. I pause to lament the fall of my honourable friend. A Liberal member! A temperance reformer! A theological lecturer! . . .

"He continued that in an hour's walk he saw four or five other drinking places, and met at least twenty-five drunken men and women. There must have been a hiatus in my hon. friend's narrative, for he went on to state that he next visited the police station. . . ." (Loud laughter.)

His most serious and central point in moving the amendment

was that it was futile to reduce the number of licensed premises as long as the clubs were allowed to multiply. Every forward step in the direction of temperance reform was neutralised by the formation of these clubs. He quoted figures to show the enormous increase of clubs in England in the last twenty years, an increase which was co-extensive with the closing of public-houses. The clubs enjoyed the same privileges of which the public-houses had been deprived, and by their constitution they were immune from supervision or interference. Members of these clubs could buy drinks in them at any hour of the day or night, during the week, and on Sundays. The police could not enter the clubs, and there was no check on the drunkenness which took place in them; besides this, the proprietor could furnish the club as he wished, so that it might be insanitary and sordid, whereas public-houses had to satisfy the licensing magistrates. Clubs did not contribute to the revenue as did licensed houses. They were allowed to have entertainments for which a public-house had to obtain a special licence which was very often refused. He showed in this speech the beginnings of that staunch support of the licensed victuallers which was to become a feature of his speeches on the Licensing Bill, pointing out that the great difficulty created by the proposals of the present Bill was the complete insecurity in which it would leave the licensed victuallers of Scotland.

He concluded his speech by saying gravely :

“Let me recommend to the hon. gentlemen opposite, that they should extend to their judgment of their neighbours’ affairs the same standard of conduct that they apply to their own. I have exchanged many cheerful glasses with hon. gentlemen opposite, who are now wearing an unnaturally austere expression, and I would suggest to them that it is unwise for any great party to try to effect moral reforms at the pecuniary charge of the people. I appeal to the House to resist the temptation of laying up for themselves treasure in heaven by the inexpensive method of confiscating other people’s treasure upon earth.”

Licensing was a question to which F. E. Smith devoted a great deal of time and thought between 1906 and 1911. It was, also, a subject which offered better scope for irony than such measures as the Education Bills, the contents of which to-day appear dull and complicated. He delivered three speeches in 1908 on the licensing question; on February 27, on April 29,

in the debate on the second reading, and on November 20 in the debate on the third reading of the Bill.

Before 1904, when the Conservative Government under Mr. Balfour passed their Licensing Act, it was left to the discretion of the licensing benches to deal with the question of renewals of licences for the sale of intoxicants. It was left to their discretion to grant or refuse them : renewals of licences, however, granted to ante-1869 beer-houses could only be denied on account of the unsuitability of the applicant, or the condition of his premises. The distinction was removed by Mr. Balfour's Act which enabled licensing benches to refuse to renew any licence if they found that the character of the applicant was unsuitable, or that the premises had been ill-conducted. If they considered that a licence should be refused on other grounds than these, they were empowered to refer the case in question to the Quarter Sessions, who could, if they judged it necessary, refuse the renewal of the licence on payment of compensation to the persons interested ; that is to say, all those persons who had any interest in the premises, such as the holder of the licence, the owner, or the mortgagee. The amount of compensation was fixed at the difference between the prices which the premises would command, licensed and unlicensed, in the open market. A compensation fund was established by the 1904 Act and was vested in the Quarter Sessions. Holders of present on-licences were the sole contributors to this fund. They were also compulsory contributors on a fixed scale. When a new licence was granted, the licensing bench were empowered to make such conditions as were necessary to secure the public the monopoly value.

This Act met with violent opposition from the Liberal party, which immediately vowed to repeal it when in power, and substitute for it a Licensing Bill of their own. This was the measure of 1908. The first proposal of the new Bill was for a swift compulsory reduction of licences within fourteen years, starting from April 1909. The scale on which they were to be reduced was uniform, and based on a ratio between the number of licences and the extent of the population. It was introduced by Mr. Asquith, who estimated that a suppression of one-third of the total number of licences would be effected. Licensing benches were to be superintended and spurred on in the work by a licensing commission of three members. Compensation was to be paid as before, and the compensation fund

was to be vested in the commission, and raised by regular charges on holders of old on-licences. A limit of fourteen years was imposed.

F. E. Smith was strongly opposed to the tenor of the whole proposal. Criticising the attitude of the Liberal Opposition in 1904, he said that they had based their objections to the Bill on entirely false premises, a grossly exaggerated estimate of the capital value of licences in this country. Mr. Asquith in introducing the Bill had estimated the value at £100,000,000: Lord Loreburn, the Lord Chancellor, had said that if the 1904 Bill had been passed the value would have been £600,000,000. Sir Thomas Whittaker had written to *The Times*, and estimated the value at £100,000,000. Smith, quoting from an impartial paper, *The Statist*, showed, by taking the average statistics of a number of typical companies, that brewery securities had since 1904 depreciated in value more than any other form of security, whereas it had been said that the Unionists had corruptly introduced a Bill which had "endowed the brewers".

He went on to deal with another objection which had been raised against the measure of 1904—that it would not diminish the number of licences. Mr. Balfour had indeed been interrupted in the course of his speech when he predicted that the result of his Bill would be to diminish the number of new licences granted. Actually during the eight years before 1904 the annual grant of new licences was 215. In the three years since the 1904 Act the annual average was 56. He enquired whether Mr. Asquith considered 1,500 licences per year an adequate reduction in the number of licences. Mr. Asquith agreed to this proposition. There were at the moment 95,000 licences in the country. If reduction were made in these at the rate of 1,500 a year, in twenty years no less than 30,000 would have disappeared, and in a rather longer period the necessity would clearly arise of creating new licences all over England.

Proceeding to what he called the Achilles heel of the Bill, he again drew attention to the inadequacy of a policy which suppressed licensed houses, but did nothing to restrict the growth of clubs. In Smith's view this growth of clubs alongside the reduction of licences must completely neutralise the effects of the Bill. "We", he said, "have never pinned ourselves to this as the one supreme method of dealing with the licensing problem. We have never pinned ourselves to the idea that

you must deal with clubs in Pall Mall and with working men's clubs. It is not our panacea, but it is yours, and if after this Bill you have made no progress in reducing the number of clubs in which drink can be obtained, then your Bill is not worth the paper on which it is written." All that had been done in the direction of controlling the clubs had been a proposal to make the registration of clubs annual, instead of the one registration sufficing once for all. But this formal and annual act of registration gave no control over the clubs, and no assurance that they would not grow in numbers. "The Government", he said, "is willing to leave these clubs in every town in England, and they may grow up next door to the licensed premises which they propose unjustly to suppress."

We shall see the question of the existence of these clubs running like a thread through his speeches on licensing. He twisted the anomaly into delicate satire in his speech on the second reading of the Licensing Bill on April 29, 1908. The Liberals could not deal with the clubs which meant so much to their supporters, and were driven in this Bill to a dishonest and unilateral preference. Mr. Lloyd George at a meeting in the Albert Hall had said: "If the Government goes down on this issue it will be with flags flying in a moral cause."

Smith had filed this remark for reference, and in the course of a closely reasoned speech on the second reading, he said, referring to the Walthamstow Liberal and Radical Club: "I believe that the hon. gentleman who represents Walthamstow (Mr. J. A. Simon) is a convinced supporter of this Bill, and is in favour of Sunday closing. How are his supporters generating their zeal on his behalf, and amusing themselves on Sunday mornings at the Walthamstow Liberal and Radical Club, Buxton Road, High Street? Here is the programme of a Sunday morning variety entertainment": here he read out the names of a series of artists performing in the club. He continued: "Then what do we find in the constituency of the Parliamentary Secretary to the Admiralty (Dr. Macnamara), who played a conspicuous, though hardly successful, part in the Peckham election? What do we find in the North Camberwell Radical Club? That club advertised, 'Sunday morning lecture on the principles of Malthus. Sunday afternoon musical comedy *The Hypocrites*.' How does this champion, this convinced advocate of the cause of effective moral reform at the admitted expense of

investors, deal with the matter when assailed in the Press? He wrote a letter to the *Daily Telegraph* in which he said that if the parson could not compete for his patronage with *Iolanthe*, so much the worse for the parson.

"Hon. gentlemen opposite cannot afford to deal with the clubs. They dare not: their political lives are not worth a moment's purchase if they do. The explanation is, that in dealing with the English people you are dealing with a strong, virile race. The reason why you cannot compel them to reduce their clubs and why in this Bill you shrink from dealing with them is that you know that the people in a democratic country will not allow you to do it, and when you admit that in connection with the clubs, you have driven the last nail into the coffin of this Bill." Then a pause, and he resumed very suavely: "The Chancellor of the Exchequer talks about going down with all the ship's flags flying. The ship, Mr. Speaker, is the S.S. *Whited Sepulchre*, and has the Jolly Roger flying at the mast!"

Again, on the third reading on November 20, he set the House in an uproar with smooth but barbed phrases flung at Liberal and Labour members, and provoked what he desired to provoke—angry interruptions. He spoke of the effect of the Licensing Bill on the voters. "The Liberal", he said sweetly, "is obsessed by pictures of inebriated electors carried prone on shutters to vote against the Bill while the Party bands play 'Beer, glorious Beer'." He lifted a languid hand in the direction of Sir Thomas Whittaker, the temperance reformer, and a leading spirit in the Bill: "*Vox populi, vox Dei*," he observed, "but it speaks with a hiccough unless the hon. member takes proper precautions." Then he referred to a speech which had been made by Mr. Ellis, in which he had drawn a moving picture of the results of excess. His words brought Ellis to his feet in indignation. Smith sat down, while Ellis read out what he had said in the speech, which had been delivered at a popular Sunday afternoon gathering, on the question of drink. "There are at the present moment in the Commons House of Parliament men sitting there who are in danger of falling, and know they are in danger of falling from this evil." Smith was on his feet again: smoothly he thanked the hon. member for leaving the members in question unnamed, then added in the quiet, pleading voice, "but the hon. member greatly qualifies the pleasure I shall have in sitting next to him at dinner". Immedi-

ately there was uproar ; shouts from the Liberals, and a few Unionist cheers, cries of " Fair play ! " " Withdraw ! " Smith was in his element, and stood there slim and thoughtful amid the crowd of shouting members, a slightly puzzled look on his face, waiting for the tumult to die down.

He refused to withdraw, conscious of being in the right. Ellis had reflected on the character of members. Smith thought himself fully entitled to reply in whatever manner he wished.

THE CONSTITUTIONAL STRUGGLE (1909—11)

CONSIDERING the Parliament of 1906, we see that it was dominated by the Constitutional issue. The Liberal Party had become deeply soured by the constant rejection of their Bills in the Lords, and by the unrestrained veto which made those rejections possible. Gladstone, speaking for the last time in the Commons in 1894, had protested against the rejection of his Home Rule Bill by the Upper House. The Liberals before 1906 had a definite legislative programme, and they had proclaimed that they would repeal the Education and Licensing Acts as soon as they came into office. Riding into power on the avalanche of 1906, or, as F. E. Smith preferred to describe their arrival, "floating into Parliament like corks on the top of a dirty wave", they had lost no time in implementing their pledges. But the Liberal Education Bill, sponsored by Mr. Birrell, though passed by large majorities in the Commons, met with a sudden death in the Lords, where it was refused a second reading. At once from the Liberal ranks arose the clamour against the House of Lords. It had defied the decision of the electorate, it was archaic and anomalous, and out of tune with the trend of modern democracy. In the same Session the Lords passed the Government's Trades Disputes Bill, but threw out the Plural Voting Bill on the ground that it was inexpedient to single out one electoral anomaly to reform.

F. E. Smith had presented the opinion of the Opposition when he accused the Cabinet of cowardice in refusing to make the Lords question the first issue in an appeal to the country. The Government clung to office, resolved to bring forward the other measures in its programme, whatever might be their fate in the Lords. This was their anchorage. Then began the series of ill-fated Bills; the Licensing Bill of 1908 passed through a turbulent Commons, and was rejected by the Lords. It was significant

how the Liberals acquiesced in this decision : it was as though their leaders shrank from the verdict of the country on a measure which they knew to be detested. They let out the rope and waited for the peers to hang themselves ; their policy was to lure the public into distrust of the process of obstruction, while they still postponed a definite appeal on the definite issue.

With the approach of 1909 a wider arena was opening up to F. E. Smith than was disclosed by licensing and educational problems. The policy of the Government was soon to take a more Machiavellian twist. In 1908, Mr. Lloyd George became Chancellor of the Exchequer, succeeding Mr. Asquith, who at Sir Henry Campbell-Bannerman's death became leader of the Liberal Party. In 1909 he introduced the notorious "People's Budget," in which were included a series of taxes on land values, the character of which alarmed all property holders, taxes which in effect increased both income tax and death duties. There had been a great growth in national expenditure, partly because the Navy had to be strengthened in the face of German competition, partly because of the expense of Liberal social reforms, such as old age pensions, which were given in 1908.

Again the Opposition urged that a Tariff would at once yield a substantial new revenue from duties on foreign imports, but the Government preferred to increase the existing taxes, hoping, as it was to prove vainly, that the new imposts on land would yield a large return. The new taxes were at once bitterly criticised on the ground that they placed an unjust burden on those who had invested in land rather than in other forms of property and that they were a first step towards the resumption of all landed property by the State.

It is unnecessary to enter into details of this taxation which F. E. Smith attacked in an able speech at Liverpool on August 29, 1909. Mr. Lloyd George used the occasion adroitly. He embarked on an incendiary campaign against the landowners, especially the Dukes. He ran through every weapon that the armoury of the brilliant demagogue contained ; his dagger flashed into every part of the ducal body, above and below the belt.

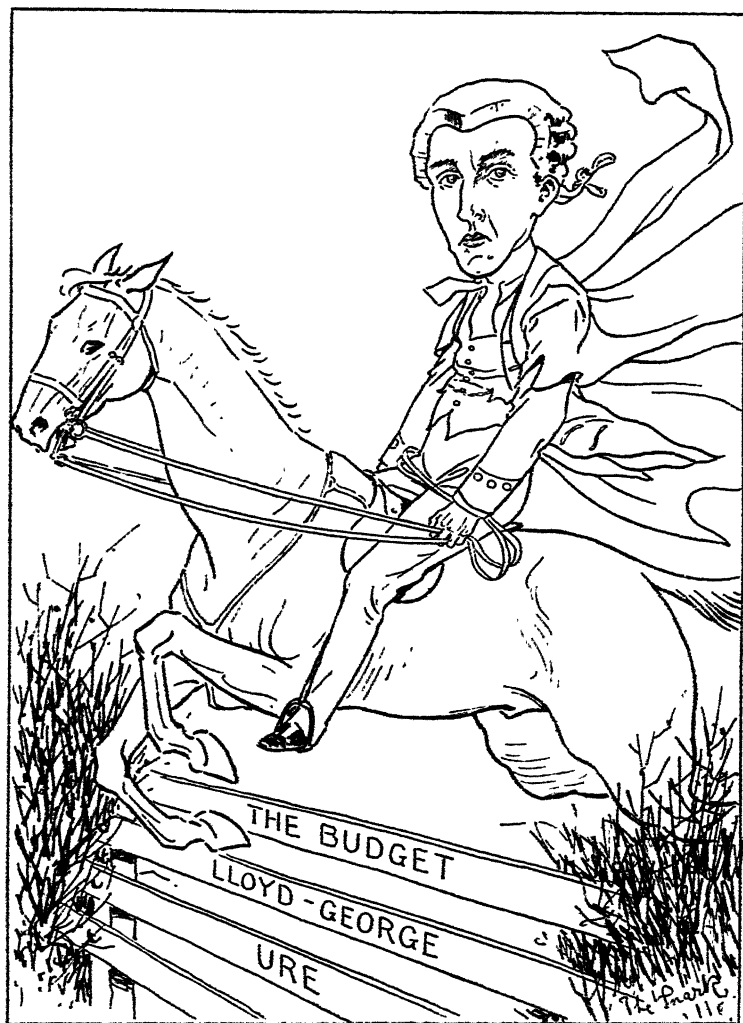
"What is the chief charge against the Budget ? he asked on one occasion. That it is an attack against industry, and an attack on property. I am going to demonstrate to you that it is neither . . .

only one stock has gone badly, there has been a great slump in Dukes. They used to stand rather high in the market, especially in the Tory market, but the Tory press has discovered that they are of no value. They have been making speeches recently. One especially expensive Duke made a speech and all the Tory press said, 'Well now, is this the sort of thing we are spending £250,000 a year upon?'—because a fully equipped Duke costs as much to keep up as two Dreadnoughts, and Dukes are just as great a terror, and they last longer. . . ."

Yet this was no senseless bludgeoning; and these gibes shrouded a more subtle purpose—a purpose which sought not merely to court the people with the lure of class taxation, but to goad the peers into such rage and alarm that they would be tempted to outstrip their constitutional privileges. He was playing for rejection by the Lords; its electoral value was clear. The Lords had already openly threatened to reject the Budget: the prestige of the Liberals was waning, and the light of 1906 was low, after three years of sterile supremacy. If they were defeated on some measure which excited no popular appeal, it was possible that they might not be returned. Armed with the cry, "The Lords or the People," their return to power was inevitable. Mr. Lloyd George's one anxiety was that the Lords would recoil from the responsibility of rejection.

F. E. Smith's last important speech in his first Parliament was made on the third reading of the fatal Finance Bill, on November 4, 1909. Here he displayed to the full his command of polished and savage invective at the expense of the Lord Advocate, Mr. Ure. That Scottish lawyer had won a cheap notoriety in the autumn by telling provincial audiences that if the Conservatives were returned at the next General Election they would abolish the Old Age Pensions lately given by the Liberal Government. Mr. Ure had made this statement repeatedly despite Mr. Balfour's express disclaimer of any such intention and despite the acceptance of his disclaimer by the Liberal Press. Mr. Balfour, angered beyond his wont, dealt with Mr. Ure's falsehoods in the House, but the Lord Advocate defended himself and was supported, somewhat cautiously, by the Prime Minister. Then Smith intervened. He adopted his usual method of marshalling the facts, quoting Mr. Ure's speeches at Newbury, Tring, Walsall, Acton and other small towns—where he probably did not expect his words to be reported verbatim—and commenting bitterly on their false suggestions.

"Controversialists opposite seem to fall into two classes—those who propose to conduct the coming campaign by saying that the old folk run a serious danger, and those who propose to say with



the Prime Minister that they can sleep in their beds. That is not the same position. Is there one colleague of the Prime Minister who would say he was going to the pensioners to-morrow with the terrible message that they run a serious danger? The Lord Advocate is condemned by the silence of his colleagues."

Smith went on to say :—

“If I were a passionate supporter of the principles on which the Budget purports to be based, I would say, ‘Non tali auxilio nec defensoribus istis’.”

As the Opposition cheered, the Labour members cried “Translate”. Smith retorted :—

“I will gladly translate. The Budget, if it be an honest Budget, needs no such weapons as those the Lord Advocate uses.”

After this, no prominent Liberal ventured to hint that old age pensions were in danger. The Government had many far stronger arguments for a renewal of their term of office.

The Liberal majority in the Commons was more than sufficient for the passage of the Budget. When it reached the Lords it became clear that the Conservative Peers were in earnest. A period of conferences and negotiations began, to decide what attitude the Opposition was to adopt. F. E. Smith had no doubt as to his own position. With regard to the Budget he was a moderate. The extreme section, the Die-hards as they were later to be called, took the view that the Lords should reject the Budget. The moderates saw the fatal results which must spring from the rejection—the powerful election cry and the certain mutilation of the Lords. He was convinced that the Lords should pass the Budget, so that when its brutalities were exposed and the Unionists returned to power, its terms could be altered and softened, its more violent clauses repealed. He had no doubt that if the Budget was passed it would collapse under the weight of its own folly, and that a disillusioned electorate would within a year swing round to the rival party.

He urged these views on his party leaders, beseeching Mr. Balfour to stand resolutely against extremist clamour. He was clearly right, but he was over-ruled. The more violent section of the party was too strong, and amid scenes of tremendous tension and for the first time within living memory, the House of Lords threw out the Budget. The Government looked on with relief and delight. The saner Conservatives were in despair: they had seen their leaders squander every trump by the stupidity with which they played their cards. The opening gaped wide for the Government, and the target of Liberalism became the destruction of the Upper House preparatory to the passage of Home Rule and Welsh Disestablishment.

Mr. Asquith at once advised the King to dissolve Parliament, and appealed to the country in January, 1910, to decide between Lords and Commons.

F. E. Smith had been active in the long-drawn debates on the Budget which was not finally passed by the Commons until November 4, 1909. He had spoken, too, in the country, had picked up Mr. Lloyd George's Limehouse shafts and hurled them back with an equal violence, and he had used his pen as well as his voice in the attack. With remarkable effrontery for a man who had been for only three years a Member of Parliament, he published a volume of *Speeches delivered in the House of Commons and Elsewhere*, 1906-1909, which quickly passed into a second edition. One may doubt whether any other Member of Parliament after only four years' experience has ever ventured on such a publication, or certainly achieved such a success with it, and the fact that his speeches were well reported shows that in the opinion of experienced editors the public wanted to know what he said.

Here it may be noted that Smith owed his rapid success in no small degree to his literary gifts. He had a lucid and vigorous style, and he recognised from the very first the power of the Press to supplement the efforts of the platform. In his first election campaign in the winter of 1905-6 he contributed an instructive series of papers on Tariff Reform to the *Liverpool Courier*, which undoubtedly helped to maintain the Conservative hold over that city while elsewhere the party was routed. He was careful to continue this practice when he had entered Parliament. He contributed frequent articles on politics to the *Morning Post* and other papers. He wrote pamphlets, notably on the Licensing Bill of 1908, and in 1913 he was to attract widespread attention by a substantial volume on *Unionist Policy*. In later years, as we shall see, he became a voluminous author, dealing with life and literature as well as with politics. Until then he had no leisure for writing that did not bear on his political career.

The Budget election of January, 1910, was fought with extraordinary ferocity and bitterness; there were free fights at meetings; Smith ranged the country before the Election, speaking to great audiences in every part of England. He was to speak in Manchester, where a disorderly crowd of six thousand people was awaiting him in the Free Trade Hall. An equally large crowd surged outside the building. He was caught in it as he tried to

enter; he pushed his way through, coming into collision with a large navvy, who said: "Get away, I want to get in to hear that —, F. E. Smith, speak!" "Well," replied Smith, "I am that —, F. E. Smith, so if you don't help me get in you'll never hear that —, F. E. Smith, speak."

He went to Walton for the last few days before polling. His meetings were broken up by hired roughs, but he was not prepared to tolerate this interference and he mustered twelve giants from the Salvidge Brewery, whom he draped becomingly in frock coats. The bodyguard was commanded by Captain A. L. J. Scott, Smith's intimate friend and a pupil in his chambers, later Commander of 60 Squadron in the R.A.F. After this hecklers were silent. It was hardly safe for a man to look as though he might interrupt, and the rest of the campaign proceeded in perfect calm.

No effort was neglected to unseat him. The old Liberal candidate was thrust aside, and Mr. Frank Joseph was substituted for him in the hope that he would command a stronger local influence, while the tenacious Jellicoe reappeared as an independent Liberal, but Smith increased his majority to 1,114. Again the lugubrious funeral card was sent: "In memory of F. E. Smith, the Tariff Reformer, who met his doom January 19, 1910, by the hands of his loving friends, the Liverpool ratepayers of Walton," and he held it up from the balcony of the Belmont Street Club to the crowd below, and said: "Only to-night I was given a funeral card. It recalls a humble and lonely grave. (Laughter.) Ladies and gentlemen, the grave, we are told, has been dug, the only difference is that there are two corpses to put into it instead of one!" (Laughter and cheers.)

F. E. Smith had done excellent work for the Unionist cause on the platform. A few weeks later, George Wyndham, writing to him with reference to a hypothetical duty on wheat, said that he was consulting Smith because "you have done more on the platform for the party than anyone else". But the efforts of the Opposition, and their strenuous advocacy of Tariff Reform as an alternative to the People's Budget and the abolition of the Lords' veto, could not at once overturn the Government. Its majority was, indeed, greatly reduced, but still substantial.

The reduced majority was however in one respect more perilous for Unionists even than the victorious phalanx of 1906. Then the majority of the Liberal Ministry was independent alike

of the Irish Nationalists and the infant Labour Party. Now in 1910 it found itself with a majority of 126, dependent for its very existence on the Nationalist vote. Redmond and his eighty-six supporters, members of that party which had for years "been unashamedly on the political market", held the key to the situation. When he sent his followers into the Opposition lobby, the Government must fall. The price of his support was known to all, and the Liberal leaders who had hitherto displayed only the most lethargic interest in Irish Home Rule must now make that measure the first plank of their platform.

The road to Home Rule lay through the House of Lords. Convinced that the Lords would never in normal circumstances accept a Home Rule Bill, the Irish party prepared to lay presumptuous hands on the veto. The Liberals, now weaker and wiser, had steered their party into a position in which it could no longer be saved by windy resolutions, but must step forward under Irish pressure to the work of demolishing the Constitution by a vicious and puerile Bill. Mr. Asquith was forced to rip open the half-healed wound; without pressure he might well have shrunk from the extreme course, but in the grip of Redmond he could no longer draw back, or even arrange a compromise with the Opposition. He was driven to make his resolutions limiting the Lords' veto the first business of the new session. The resolutions were moved towards the end of March, 1910, and were debated long and bitterly.

F. E. Smith had rigidly and consistently opposed the measures of restriction, and on March 30 made his most brilliant speech in the Commons, opposing the resolutions. It was the second day's debate on the question: the Government was trying to appease its hungry followers with three resolutions to clip the peers' veto. Smith seemed to have grown in power, and the phrases were rolled forth with a more devastating precision. His victims lay to his front and to his left; the Treasury Bench, the Ministerialists behind them, the Labour ranks below the gangway, Redmondites and O'Brienites, his satire flickered over them all. Mr. Asquith was restless and uncomfortable, Mr. Redmond squirmed when, referring to the failure of the Government to settle the Lords question, Smith said: "They cannot make up their own minds: their minds have not been made up for them by Mr. Redmond, and Mr. Redmond's mind has not been made up for him by Mr. O'Brien!"

The survivors of the Liberal League, Grey and Haldane, as he reminded the House, had been put into the Cabinet to act as watchdogs, but the only thing they had watched was which way the cat was jumping. He ridiculed the belief of the Government that what the House of Commons said three times must be right, and should therefore become law. "The only historical analogy is the Snark," he said amid gusts of laughter. "Why three times? If you may be wrong once or twice, I cannot imagine why you cannot be wrong three times. Is it something like an incantation?"

The air was suddenly thick with Radical interruptions. Smith became instantly polite and turned to face them. "You say", he said smoothly, "that a decent revising Chamber would not have thrown out the Unionist Education Bill and Licensing Bill?" There were shouts of incautious corroboration. "Then", he continued gently, "by your theory that a bill passed three times by the Commons should become law, our Education Bill and our Licensing Bill, if passed three times by us, would have been right in becoming law."

He played with the unwise statements which had been made by Ministers about the Budget. Mr. Churchill listened to a quotation from his own speech: "We are going to run the Budget through. I appeal to Liberals to carry it through at the run." "They have been running ever since—in the opposite direction," said Smith coolly. Then he leaned forward and spoke in a low voice, but with tremendous venom, to the Treasury Bench: "You are going to destroy the Second Chamber for rejecting a Budget which you dare not present to the First Chamber fresh from contact with the electorate." The Radicals had spoken lightly of a "revolution". Smith turned and looked at the Ministers huddled on the Treasury Bench, and said with a sneer, "I don't wish to be offensive, but hon. gentlemen opposite me are not of the kind of stuff of which revolutionaries are made. The respectable and benignant countenances facing me are ill-suited to the red cap of revolution. Tea meetings and P.S.A.'s and not a Committee of Public Safety or barricades are more in their line."

In other respects the speech was an argument that the Lords had a perfect constitutional right to reject the Bills which they had rejected, that the rejection had represented the will of the people as declared in the general election, and that therefore the resolution should be dropped.

When the struggle was at its height King Edward became dangerously ill, and a fugitive truce softened party controversy. When the King died and King George succeeded, Liberal and Conservative leaders met to attempt a compromise. F. E. Smith's pugnacity in the House was misleading. On the surface he was the bitter party frondeur, beneath he was feeling his way towards the creation of a coalition. He was an earnest advocate of national as opposed to party government; when the Coalition fell in 1922 he regarded it as the greatest calamity of the post-war years and willingly followed his leader out of the limelight. The tension of party politics had become unbearably acute between the two Houses in 1910. F. E. Smith was passionately eager to arrive at a settlement on the great questions at issue—the Veto, the Disestablishment of the Welsh Church and Home Rule.

Mr. Churchill and Mr. Lloyd George were caballing within their party for coalition. Recognising in F. E. Smith a strong coalitionist, Mr. Churchill admitted him into his confidence. Smith was the first Unionist to know of the proposals that were to be made. He acquainted Mr. Balfour with them; Mr. Churchill confided in Mr. Asquith. One evening F. E. Smith and Mr. Churchill met privately and discussed the situation. Smith indicated at length his plan for a settlement, an inter-party bargain involving reform of House of Lords and Tariff Reform. Next day Mr. Churchill wrote to him and said that the terms which Smith had proposed were too extreme, and could never be accepted by the Liberal ministers. He spoke in his letter of the high cards held by the Liberals for bargaining purposes, and expressed the view that the Liberal party could by resolutely advancing defeat both Tariff Reform and the Veto, and much else besides.

F. E. Smith gave public expression to his ideas in a letter written to *The Times* on June 15, 1910, and in a Liverpool speech on July 2 urging that there should be a "real and honest truce" while the party leaders were conferring on the Lords' veto. How great and far-reaching was the settlement that he had in mind may be gathered from the two following letters written to Sir Austen Chamberlain while the inter-party Conference was still sitting. F. E. Smith envisaged a compromise on all the main problems of the day—the House of Lords, Home Rule, Tariff Reform—and proposed to enforce that compromise by a

coalition of moderate Liberals and moderate Conservatives which would overwhelm the extremists on both sides.



L. RAVEN HILL.

"Punch," 2nd Nov., 1910.

STUDENTS ON THE MAKE.

Mr. F. E. Smith : " Master of Epigram—like me ! ! "

Mr. Winston Churchill : " Wrote a novel in his youth—like me ! "

Together : " Travelled in the East like us. How does it end ? "

By permission of the proprietors of "Punch."

4, ELM COURT,
TEMPLE, E.C.

October 20, 1910.

MY DEAR CHAMBERLAIN,—

I was sorry to miss you. Don't answer this scrawl.

I think you appreciate that our position in the country is bad. I myself believe (and so does James Thompson of Liverpool, who knows the whole North) that we shall be a shade weaker in the new parliament assuming a January election. This means (a) defeat in the Lords, (b) National Defence neglected, (c) Tariff Reform beaten three times running and another futile Colonial conference; (d) Generally: a frittering away of national energy over constitutional crises injurious to the State and menacing to the Monarchy.

Therefore whether the big thing comes off or not I hope the Conference won't fail. I know that the Govt. cannot carry their followers with them upon joint session, so we might easily see them smashed or dependent upon our support. Nor does it seem to me logical to submit the tremendous domestic problems of the future to joint session and reserve Federal Home Rule—a dead quarrel for which neither the country nor the party cares a damn outside of Ulster and Liverpool.

The big Settlement.

Contrast what is attainable under this scheme with the result of defeat in January: (a) National service and adequate Navy, (b) concessions to Colonies on basis existing duties and *a real and fair enquiry* of which L. G. has said that he will gladly follow it if it recommends change. I don't think W. S. C. would. But it means, I think, the vindication in history of your father's prescience instead of a failure caused and caused only by his irreparable and most cruel loss at the beginning of our campaign.

I am absolutely satisfied of L. G.'s honesty and sincerity. He has been taught much by office and is sick of being wagged by a Little England tail. But if he proved in a year or two *difficile* or turbulent, where is he and where are we? He is done and has sold the pass. We should still be a united party with the exception of our Orangemen: and they can't stay out long. What allies can they find?

True, Dizzy said England hated coalitions. It does hate

coalition like Fox's and North's which had no particle of public justification, but I never in 20 years remember a time when so many men in England were sick of mere party cries and faction. A great sigh of relief would go up over the whole of business England if a strong and stable Government were formed. There is a general feeling that the new King should have a chance. Furthermore such a Government could (1) say to Redmond: thus far and no farther, which Asquith standing alone cannot; and (2) absolutely refuse reversal of the Osborne judgment, which Asquith standing alone cannot.

I do not under all these circumstances believe that a coalition would in any way shock the public conscience and it might at the best give us a national Government for ten years; at the worst it would enable us to fight against opponents whose most formidable leaders were discredited and under circumstances which might lead to another period of Tory ascendancy.

Please forgive me for writing dramatically and hurriedly. I have been working in Court for about 8 hours to-day and am tired. You know me well enough to be sure that whatever happens I shall be fighting on your side to the end, in or out of office, but I have a deep and earnest conviction that to refuse this offer at this crisis would almost be a crime against the Empire.

Yours as ever,

F. E. SMITH.

I shall be so interested to know what your father thinks.

4 ELM COURT, TEMPLE,

Oct. 21, 1910.

MY DEAR CHAMBERLAIN,—

I am very grateful for the fullness and frankness with which you wrote to me. I burned your letter as it dealt with very private matters.

I think we are agreed about the larger proposal. The difficulties are immense. We cannot carry it through without losing some friends, but I think we should lose very few and those temporarily. Anyhow, we are at one in thinking that the overture demands the most earnest consideration of those who will have to decide.

The difficulty is that time is so short. If Parliament meets with the affair still unsettled I think the increase of party passion will greatly add to the difficulties.

I have read with great interest what you say about the Conference. If we are to revert to party positions I think you are clearly right in fighting for an appeal to the country on such matters as Home Rule. But it is evident that the whole perspective of the Conference discussions is altered by these larger possibilities. We are at present, as I understand, insisting that certain constitutional questions including (and principally meaning) Home Rule shall be excluded from joint session and be made the subject of Referendum. This is an intelligible battle-ground if the larger question had not arisen. But if we agree upon Federalism as an item in the great arrangement, it ceases to be important to insist upon a reservation which was, I understand, devised mainly in relation to Home Rule. If it be replied that other important constitutional issues may arise, is not the answer that the relations between the two houses must hereafter be regulated by a statute embodying the Conference agreement, and that strict securities against the easy alteration of such a statute will give us nearly all we are fighting for? Personally I hate the Referendum. We should win matters which don't much matter like the Licensing Question or Education on its sectarian side. But if the Referendum once comes it will spread and in the great predatory appeals of the future the Tory Party would always be beaten. Imagine a Referendum upon the last Budget!

It seems to me that if a Coalition is to be possible the Liberals must offer the House of Commons a settlement of the Constitutional question which contains some compensation for giving up finance. Having carried the Budget and settled the Constitutional question they could reasonably say: "This is our settlement, we propose to take the sense of the House of Commons upon it. If the House of Commons supports us we shall carry it through whether you like it or not."

I need not carry it further than this. The Conference settlement is evidently a condition precedent to the larger settlement, and if the larger settlement is arranged we can afford to agree to very different terms in the Conference settlement.

Haldane, Birrell and Crewe have all been consulted and have agreed. The present position therefore is that Asquith,

L. George, Churchill, Haldane, Birrell and Crewe (Grey cannot be seen until Monday) are prepared to come into a Government in which the offices great and small will be precisely divided among our party and theirs. Elibank is in their confidence and with them.

I wish so much that you could see George yourself. I know that he would like to talk it over with you and I should like to check my judgment of his intention to play straight with us. I may be wrong, but I am tempted to say of him, *quem Deus vult perdere prius dementat*. It seems to me that he is done for ever unless he gradually inclines to our side in all the things that permanently count. I understand that Elibank counts upon 40 Radical dissidents, but says that he will carry the party machinery and of course the Irish. They are anxious you should go to either the Admiralty or the Colonies. I believe they mean to shunt our friend McKenna whom they hate.

How strange it is to think that in eight weeks or twelve we may all be at one another's throats again! I have written a very rambling letter again, but the main point so far as it has me is that our whole attitude at the Conference depends upon whether the big thing is possible or not. If it is not, let us manœuvre for good fighting positions. If it is, let us concentrate upon securing the sanctity of the instrument instead of contesting points some of which will become obsolete the moment the larger agreement is made.

Don't write, but let me see you when you come to London. It is great impertinence my writing in this strain, but you encouraged me by the friendly openness of your letter. Whatever comes of this you will have no more loyal supporter than

Yours ever,

(Signed) F. E.

Please burn this.

P.S. Did you see that Ramsay Macdonald said at Liverpool on Friday that unless the Osborne judgment were reversed the Labour Party would vote against the Budget? If we revert to fighting I fear the Government might have to give way simply in order to keep their forces solid. This opens up the possibility that the Lords might have sent to them (and might have to reject) an Osborne Bill before the Election, which itself is a disquieting contingency.

But F. E. Smith's proposals, as he had doubtless foreseen, were far too drastic to appeal to the average party politician, and involved the taking of risks such as neither Mr. Asquith nor Mr. Balfour would be likely to face in normal times. Four years later, under the pressure of war, English statesmen showed that they could subordinate party to the interests of the nation, but that time was not yet come. F. E. Smith's ideas, premature in 1910, were later adopted to a large extent during and after the war. As we shall see, he made desperate attempts to make the Conservative and Liberal Coalition that emerged from the war an enduring feature of the post-war years, and sacrificed high office rather than countenance a return to party politics in 1922.

In the late autumn of 1910, when the combined pressure of narrow Radicals and impatient Irish Nationalists had become too strong for him, the Prime Minister put an abrupt end to the conversations with the Opposition, and obtained from the new King an assurance that in case of need new peers would be created *en masse* to overbear all opposition to the Government's veto proposals in the House of Lords. The Opposition could only nourish the hope that a fresh appeal to the country would be in their favour.

The Women's Suffrage Bill had made a break in the constitutional struggle. Women's suffrage, all too strongly demanded by a powerful body of politically minded women, was still an open question for the party leaders. Mr. Asquith was against it. Mr. Balfour was understood to favour it, but the Liberal and Conservative organisations held aloof. When the Bill came before the House for second reading on July 11, all members were left free to vote as they chose. Smith, as always, violently opposed to women's suffrage, led the attack in one of his best speeches, but the Bill was read a second time by a fair majority.

As the election approached, the Opposition tried to make Tariff reform more acceptable to those who feared food taxes by promising that such taxes should not be imposed, if the Conservatives were returned to power, until they had been sanctioned at a referendum. Smith advocated this proposal more than once, but it attracted little interest among free-traders, while it annoyed serious Tariff reformers.

The election of December, 1910, was fought on the same issue as that of the preceding January. The result was almost identical.

A few constituencies changed their allegiance, but the Government majority was almost intact. Smith was thanked by his leader for the great efforts which he had made in Liverpool and the neighbourhood, but the Opposition was on the whole greatly dispirited.

When the new Parliament met in February 1911 the Government at once introduced the Parliament Bill, which provided that if a Bill passed by the House of Commons was thrice rejected by the House of Lords in successive sessions within a single Parliament, it should become law. The duration of a Parliament was limited to five years, and a loosely drawn preamble hinted vaguely at a reform of the Upper House in an uncertain future. The Ministerialists had sanctioned its introduction by a majority of 124. Mr. Asquith walked up the floor of the House and presented the Bill, which was formally read for the first time. There were loud cheers from the Liberal-Socialist-Nationalist coalition, and a strong counterblast from the Opposition. Six hours earlier, in a thin House of Lords, Lord Lansdowne had given notice of his early intention to introduce a House of Lords Reform Bill.

The position was strange: the misty preamble was designed to win moderate Liberals to the support of the Bill, with its vague schemes of reform. But the Socialists did not want reform; they looked forward to abolition, while the Nationalist party would instantly desert the Government if a reformed House of Lords were established before Home Rule was granted. After it had been won, their interest would be dead. It was a coalition of incompatibles, and its admitted object was to destroy the Lords' absolute veto over measures from the Commons, place Home Rule on the Statute Book before another election took place, and then perhaps in the distant future to conceive some leisurely method of reform. But it was clear to all that the reform proposals in the preamble were a solace to those moderate Liberals whose votes were desired, but who shrank from the prospect of single-chamber autocracy. During the next few weeks both Houses would be busy, the Lords framing a scheme to recreate themselves, the Commons crippling the Lords, but with no serious intentions of reform. The Houses would then exchange Bills, and the choice would lie between a fight to the death, or a national settlement of the duel between the Houses.



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[By L. F. Reed.]

"ALL THAT'S BETTER!—BACK TO THEIR WAR-PAINT"

When "Conferences" are over the political Braves soon recur to their normal habits.

F. E. Smith was the chief Opposition speaker. The reporter of the *Daily Telegraph* was impressed by the effect of the speech on the Treasury Bench, and wrote :

"He spoke for an hour yesterday, and throughout the whole time the Treasury Bench was occupied by a row of obviously unhappy Ministers, sitting most of them with folded arms and set faces, and pretending not to be affected by the shafts of sarcasm which streamed across the Table. . . . Mr. Runciman wore his white impassive martyr's mask, while the Prime Minister flushed pink at the shrewdest blows, and muttered to himself the answering sarcasms, that were, no doubt, extremely pungent, but did not pass the barrier of his teeth. No one else affects the demigods of the Treasury Bench just the same way as Mr. Smith. He seems to mesmerise them, and keep them in the cataleptic state at will."

Mr. Balfour sat immediately below his lieutenant, his face wreathed in smiles, giving soft and eager "hear, hear's".

There was a foretaste of the truculence with which the Opposition proposed to meet the Parliament Bill in his criticism of the mode in which the election had been called : "In the first place", he said, "the Government chose the time of the election to suit themselves." (Opposition cheers.) "When they chose it they knew perfectly well the date of the Coronation . . . and now they have chosen to take the Parliament Bill in the few months that intervene before the Coronation, the impossibility being obvious of waiting ten weeks in order to correct the accumulated anomalies of a thousand years. If Rt. Hon. gentlemen, or the Government, think that under those circumstances we shall be deterred from any defensive step that would otherwise be open to us, I can only say the progress of this debate and what will follow it, is likely to afford them a very considerable disillusionment. It is very much as if the Revolutionary Committee in France said to the victims of the guillotine : 'We beg of you to expire with tact, and even, if possible, with gaiety, in order not to cloud a day of national festival which happens to coincide with your funeral'." (Laughter and Opposition cheers.)

He questioned the Government's mandate : even if it had a clear mandate to deal with the Lords' veto, it certainly had not, despite Mr. Asquith's statement, a clear mandate to give Ireland Home Rule. Then the Government majority was a mosaic. Smith made a searching analysis of the elements from which

the Government supporters were drawn. In the Labour Party, sixty strong, every member yearned for the abolition of the Lords and supported the abolition of the veto because it made future reform of the Lords impossible. "They won't", he cried, "allow you to carry out your honourable obligation." Mr. Asquith muttered incessantly, Mr. Churchill scribbled voluminous notes. As to the Irish party, Smith reminded the House what part they had played with respect to the Education and Licensing Bills, the rejection of which had so inflamed the Liberals against the peers. It was a lucid and virile speech.

He claimed that the Bill would never effect a durable settlement, and recalling his letter to *The Times* of June, 1910, he said earnestly that what the country wanted was an independent Second Chamber.

"I ventured in a letter I addressed to the Press about a year ago to give my views on the subject of the changes which I think are desirable in the composition and constitution of the House of Lords. I said that the changes should be of a character not to stereotype existing inequalities; I adhere to every word I wrote then; I add this observation. What is wanted, in my humble judgment, is an independent Second Chamber (cheers), a chamber in which if this principle is admitted any mere slight discrepancy in numbers matters very little indeed the moment you accept the principle of joint sessions."

He paused.

"If the preamble to your Bill is so seriously and sincerely meant, why not carry it out now, and on these lines found your reform on the bed-rock of national consent, rather than on the shifting quicksands of party triumph?"

There were loud Opposition cheers. Later he said, "The Government must not underrate the capacity for existence of an ancient chamber strong in the support of half the nation."

He urged immediate reform with all the power at his command:

"If there is to be a preamble, what time could be so fit as the present? You have at your disposal the unexhausted energies of a youthful Parliament fresh from contact with the constituencies, which have given you authority to reform the Upper House. Will it not be said that the Government are guilty of using the chicanery of the preamble as a soporific to moderate men, while they postpone it at Irish dictation, in order to smuggle through Home Rule? If I were

a peer, I might surrender my own quarrel, if it ended there, before two elections. But I would never surrender knowing that my surrender was to be used to place on the Statute Book a Bill which was abhorrent to millions of my fellow-subjects and the right of deciding which had been filched from them by a trick.

"What man knows," he concluded quietly, "when he uproots a tree centuries old, how far its roots have spread, with how many growths they are woven and intertwined, and how many uncounted destructions may be affected by its fall?"

The proceedings on the Bill were expedited by the plea that it must be passed by the House of Commons before the King's Coronation in June. On May 15, Smith was selected to move the rejection of the Bill on third reading, a clear sign of the value which his leader now attached to him. He urged that so vital a constitutional change ought not to be made until it had been submitted to the people at a referendum. He, himself, favoured an elective Second Chamber, and predicted that at the next dissolution the issue would be that of the "People *v.* the Commons," but the Government majority was unmoved, and the Bill, passed by 126, was sent up to the House of Lords.

F. E. Smith was now to receive a great compliment from the Prime Minister, who recommended him in the Coronation Honours List for a Privy Councillorship. That the choice was Mr. Asquith's was clearly shown by the annoyance which Mr. Balfour expressed. He wrote to Smith as soon as he heard of Mr. Asquith's intention :

Private.

4, CARLTON GARDENS,
PALL MALL, S.W.

3 June, 1911.

MY DEAR F. E.,—

I hear that in the list of Unionist Honours which the P.M. is recommending to the King, your name has been substituted for Hayes Fisher for a Privy Councillorship. I have written to Asquith to remonstrate, and as I regard you in the light of a Cabinet colleague, I feel I cannot do so without acquainting you of the circumstance under which I take a step which may seem hostile to your interests. There is, of course, no comparison between your position and that of Hayes Fisher, either in the House or the country. You have clearly won for yourself a wholly exceptional position, and we all look to you as one

who is predestined to a foremost place in the party councils, a statesman and a leader. All the substantial influence which a member of the Opposition could have, you already possess. The decoration will come in no long time. I regard the Coronation Honour as the reward of past distinction—not a recognition of present, still less of future distinction, and it is this principle which has guided my advice to Asquith when he consulted me about the list. H. Fisher has worked for us with ungrudging zeal for many a long year. He has not been over-well treated by fortune, and I feel confident that you would regret as much as I that he should now be disappointed of an honour he has been led to expect. You will at least acquit *me* of being indifferent to your interests, or blind either to your great abilities or your great success.

Yours sincerely,
ARTHUR BALFOUR.

Smith replied with great tact, at the same time sending to Mr. Asquith, Mr. Balfour's letter and his own reply.

QUEEN'S OWN OXFORDSHIRE HUSSARS.

June 6, 1911.

DEAR MR. BALFOUR,

Thank you for troubling in your short holiday to write me so long a letter. I am, I need hardly say, greatly obliged to you for the candour with which you inform me of your remonstrance to the Prime Minister, and for the excessively kind manner in which you speak of my position and my prospects. I have never sought for any honour, though I should have greatly valued one offered under circumstances so flattering. Any element of personal competition in such a matter is extremely distasteful to me. I am well aware that the services of Hayes Fisher to the party have been prolonged and continuous. Pray believe that I feel it no grievance that they have been pointedly and authoritatively placed before the Prime Minister.

Yours sincerely,
F. E. SMITH.

As a result the List published on June 11, 1920, contained the names of both F. E. Smith and Mr. Hayes Fisher, and that of Mr. Bonar Law, but a certain coolness between leader and follower remained. Mr. Balfour wrote to ask Smith if he intended to

take the seat reserved by custom for a Privy Councillor on the Front Opposition Bench, but carefully refrained from inviting him to do so.

HOUSE OF COMMONS.

MY DEAR F. E.,—

I am very sorry you could not come on Friday, but quite understood the really overmastering reason which made it impossible. I should like to have a talk with you about the situation, which has been profoundly modified since our conversation last Tuesday.

By the way, are you proposing to sit on our bench? I need not say that you would be most welcome. If there are any reasons against it, they are solely connected with your own conveniences, and with your very special position as a quasi-unofficial member, possessed of an authority which a seat on our bench could hardly increase, and an independence which it might do something to diminish.

Yours,

ARTHUR BALFOUR.

General Seely sent his exuberant congratulations from the War Office.

WAR OFFICE,
WHITEHALL.

MY DEAR F. E.,—

Hurrah and Hurroo! I am indeed glad that you are Rt. Honble F. E. Very warmest congratulations from your sincere friend

JACK.

P.S. If you reply to this note, I will have you removed from the Army.

What was the significance of Balfour's attitude? The truth is that Smith, like many others among the younger Conservatives, was becoming restless under his leadership, and that Mr. Balfour resented what he then regarded as ill-discipline, if not disloyalty. The great surrender of the Peers and the collapse of Lord Curzon and other Conservative leaders in the Lords were to bring the indignation against Balfour to a head. The young Conservatives thought him too timid: his determination seemed to

have deserted him ; they mistrusted his judgment. His initiative seemed barely to have survived his translation to leadership. His attitude towards the Parliament Bill seemed to them to be flaccid and irresolute. He was known to have advised the Conservative peers that further resistance to the Bill was futile and dangerous. F. E. Smith and his allies, stiffened by the aged Halsbury, could not believe that the fight was over. Rather let the Lords resist to the bitter end.

In the *Morning Post* of July 20, Smith set out his reasons for the fighting policy which he wished to substitute for Mr. Balfour's supine policy of surrender. Lord Robert Cecil assured him privately that he could not make the party fight. He wrote :

ROXBURGHE HOTEL,
CHARLOTTE SQUARE,
EDINBURGH.
27 July, 1911.

MY DEAR F. E.,—

Many thanks for your words at the Halsbury banquet. It is difficult to judge of things from here, but it looks as if you would not be able to make the poor old Unionist party do much fighting. I have written to the *Saturday* my views in their respect.

I seem to be stuck here for the rest of my life.

Yours ever,
ROBERT CECIL.

George Wyndham, while sympathetic, was not hopeful. On the 10th July he had written to Smith.

44, BELGRAVE SQUARE.

MY DEAR F. E.,—

We had a damnable shadow-Cabinet on Friday. I understood that you were for fighting in that the Lords should not surrender to the threat of creation of peers, and that we should not discuss with the Government how many peers are to be created. That is the sole issue. The Government will not (1) dissolve or (2) resign, so our members in the House of Commons may dismiss electioneering from their minds. Granting that, and it is so—the choice is between surrendering I. (1) to an intimation that peers will be created ; or (2) to the creation of an agreed number of peers, or, on the other hand, II. announcing soon and on a

public occasion that the Government have restricted themselves to two alternatives.

(a) accepting Lansdowne's amendment.

(b) violating the constitution by creating peers.

Then it should be added that :

(1) the sole responsibility rests with the Government.

(2) that they, and no one else must decide on the degree of violence to be applied.

If we tell the Government to accept Lansdowne's amendment or create peers and tell the Government they must lobby the House of Lords to separate the cowards from the true men—well, in that case we shall save the country. If we surrender to the threat, or agree in secret to the number of creations, we shall lose the country and damn ourselves.

Yours ever,
GEORGE WYNDHAM.

Lord Winterton in his *Pre-War* wrote regarding the part played by F. E. Smith in combating the passage of the Parliament Bill: "Lord Birkenhead, who was not only the best fighter on our side in the controversy, but the coolest and most sagacious of the Unionist leaders in council, always said that it was against his private advice that the Lords had rejected the Budget, but that having rejected it, it was the height of political pusillanimity to give way on the Parliament Bill. F. E. has never received sufficient public credit for the soundness, clarity, moderation and common sense of the views which throughout his political life he pressed behind the scenes upon the various leaders under whom he served."

F. E. Smith and his friends were not turned from their determination to fight. Their minds fled back to the Fourth Party, and they began a policy of mosquito interruption of the course of business. When on July 24 the Prime Minister rose to announce the Government's refusal to accept the Lords' amendments to the Parliament Bill, he was shouted down.

Mrs. Asquith had driven with her husband to the House in an open motor. They were cheered as their car passed through the streets. The Speaker's Gallery was crowded: many of the ladies were standing up on their chairs in excitement. Mrs. Asquith listened with pride to the tumult of cheering which greeted her husband as he walked up the floor of the House.

Her satisfaction was brief.

"For three-quarters of an hour", said another eye-witness, "Mr. Asquith rose at short intervals and read a sentence or two from a manuscript, only to be overwhelmed by jeers, hootings and cries, among which 'Traitor!' was the most frequent, but with 'Redmond', 'Patrick Ford' and 'American dollars' often distinguishable. Again and again the Prime Minister tried to speak, but his voice was drowned. He spoke a few broken sentences, only a word or two of which could be heard. Finally his mouth hardened, and he glared at his tormentors like a lion at bay, an impressive figure with straight-cut features flushed with anger, and heavy grey hairs. 'Divide, divide, 'vide, 'vide!' shouted the Opposition. The Speaker tried in vain to discipline the uproar. Mrs. Asquith, roused to passionate anger, scribbled a note for Sir Edward Grey, who was sitting near Mr. Asquith with a set anxious face—'They will listen to you, so for God's sake defend him from the cats and the cads!' she pleaded, but Grey was capable only of a brief protest."

The leaders in this scene were Lord Hugh Cecil and F. E. Smith. Will Crooks, the Labour Member, was only restrained by force from assaulting them. When Mr. Asquith sat down, Mr. Balfour spoke; he sternly censured the rebels for their behaviour. This rebuke stung them into anger again. Smith jumped to his feet and tried to speak: he stood there in the shouting, seeming to beg for an audience, but he could not make himself heard. After two hours the Speaker suspended the sitting, and Mr. Asquith sent to the Press a copy of the speech he had intended to make.

Next day, July 25, Mr. Balfour published a letter in which he supported Lord Lansdowne, then Conservative leader in the Upper House, in his decision to accept the Parliament Bill in the fear of the dangerous consequence of resistance. On that day, F. E. Smith significantly left his seat behind the Front Opposition Bench, and joined the "Die-hard" group below the gangway.

Lord Milner and Lord Halsbury were agreed that the peers should reject the Bill, and let the Crown proceed to the extreme course of new creations. On the other hand, Lord Curzon and Lord Rosebery, with the Dukes of Norfolk and Bedford, exerted the weight of their great authority on the side of Lord Lansdowne. The tense situation is reflected in a brief note written in these anxious days.

Private.

HOUSE OF COMMONS,

August 13, 1911.

DEAR AUSTEN,—

Time is necessary before one can measure with just proportion the staggering calamity (as I think it) to which nerveless leadership and the Curzon-Harmsworth combination have brought us.

I am profoundly convinced that things cannot again be as they were and that the only men who can ever appeal to the constituencies to repeal the Veto Bill are the men whose hands, in your own phrase, are clean.

I beg of you in the next few weeks to think out clearly and boldly the probable developments (personal and other) of the next two years and then let us meet when we can with Carson and Wyndham.

Yours,
(Signed) F. E.

The issue was in doubt up till the final division of August 16, in which, in a tense House, 131 peers voted for the third reading, and 114 against it, and thus occurred the defection of Curzon and other notable Conservative Peers. The crisis had been turned aside, but the Unionist Party had been fatally split. After the division the rebels formed a Halsbury Club to emphasise their revolt against Mr. Balfour.

The object of this club was simply to express principles utterly hostile to the official Conservative attitude towards the Parliament Bill. It added considerably to the burden already reposing on Mr. Balfour's shoulders, and it showed clearly how disunited the party had become under his command. Lord Winterton relates that it was to correct this impression that at the first annual meeting of the club Lord Halsbury and Mr. Austen Chamberlain decided to move a vote of confidence in Mr. Balfour. This appeared to the younger members to be a ridiculous contradiction of their objects, and they decided to propose an amendment. When Lord Winterton had spoken, F. E. Smith handed him a note which said: "If you knew what I know you would not go on with your amendment." Lord Winterton asked what he meant, and he answered that Balfour was to resign in a few days and that if the amendment was carried it would be generally said that the insurgents had thrown him out of the leadership. The information, he said, was strictly private.

Lord Winterton extricated himself with difficulty from his responsibility as seconder of the amendment, and three days later Mr. Balfour resigned. But the cause of resistance was lost, and the "no surrender" policy was becoming submerged. The dinner engineered by F. E. Smith in honour of Lord Halsbury and the Halsbury Club was far more sparsely attended by peers than Smith had hoped. No list of peers who were guests at it was published, but it was rumoured at the time that only seventy were present. The Unionist Press was against the rebels; only the *Morning Post*, the *Standard*, and the *Manchester Courier* supported them. *The Times* supported Lord Lansdowne. And yet, many thinking men contemplated with dismay the passage of the Parliament Bill. It marked the beginning of a new era in the political life of the English people; it was a beginning clouded with difficulty and doubt. Single-chamber government had been established in England under pressure from Ireland. The Lords had no longer the slightest control over financial measures; had now no opportunity of criticising or reviewing such measures. They had been deprived of any effective impact on even general legislation, and the country was given over to the absolute control of a political party.

The insurgents cast round for a new leader of the Opposition, as it was evident that Mr. Balfour would soon resign. Their eyes fell upon Mr. Austen Chamberlain, but he refused to be seduced from his allegiance. On August 20 he wrote to Smith:

9, EGERTON PLACE, S.W.

MY DEAR F. E.,—

I have delayed my answer to your note partly to give me time for reflection, and partly because I was very tired and very busy, and felt the need of a little rest before I answered.

We will certainly meet, and talk the situation over carefully in the autumn. Meanwhile, and before I go abroad, which I hope to do on Wednesday, I want roughly to describe my position to you so that you may, if possible, keep in line.

I confess that Balfour's leadership at times nearly makes me despair of the fortunes of a party so led. He has no comprehension of the habits of thought of his countrymen, and no idea of how things strike them. But I have been very closely and intimately associated with him for the past eight or nine years, I know his strength as well as his weakness, I have received much

kindness at his hands as well as some hard knocks, and I am too much attached to him ever to join in any combination against him or his leadership. I took this decision long ago. I have held fast to it in spite of many difficulties and some provocation, and I am going to hold fast by it still.

All I can do to put more fight into our policy and to strengthen the fighting and constructive section within the party I will do, but what I do must be done within the limits set out above, and must not be directed against Balfour personally or against his leadership.



FRANK HOLLAND

Reynolds' Newspaper.

BALFOUR'S SHOES.

Austen Chamberlain, Walter Long and Bonar Law (all together): "What luck! Why, they'll just fit me splendidly."

By permission of the proprietors of "Reynolds' Illustrated News."

I don't think you will have expected me to act otherwise, but it is better for us both to make the position quite clear.

Let me add that I think the party in the country will look increasingly to the fighting section, and that, bad as the present situation is, the action of those who supported Halsbury has saved us from a catastrophe.

I have stayed on here on account of the strike as I thought someone ought to represent the Opposition. But the part of Casabianca has been a troublesome one, and I am glad to see a prospect of early release.

Yours very sincerely,
AUSTEN CHAMBERLAIN.

But a change of leadership was now inevitable. Mr. Balfour resigned on November 8. Two days later a Conservative Party meeting, divided fairly evenly between the friends of Austen Chamberlain and Walter Long, elected Mr. Bonar Law to the vacant office. Chamberlain wrote to Smith in terms of generous disappointment. Smith replied at once.

4 ELM COURT,
TEMPLE, E.C.

Private.

November 11.

DEAR AUSTEN,—

I can only say that you have acted with a generosity at once unparalleled and uncalled for.

Carson and I (as we both informed Law) would have backed you through thick and thin, and on the second ballot you would undoubtedly have won.

Yours ever,
F. E.

Smith, held at arm's length by Mr. Balfour, quickly profited by the change. Mr. Bonar Law begged him to take his seat on the Front Opposition Bench. Writing from the House of Commons, he said:

MY DEAR F. E.,—

If you think that your engagements will enable you to come on the Front Bench, I am sure that your presence there would be of the greatest advantage to the party, and extremely useful to myself. I can add that all your colleagues on that bench will receive you as cordially as I shall, and I hope you will think it right to join us.

Yours sincerely,
A. BONAR LAW.

It was, as Mr. Walter Long said in a congratulatory note, "his proper place". From December 4, when he took his seat besides his new chief, F. E. Smith, now thirty-nine, was one of the leaders of the Unionist Party.

The invitation to sit on the Front Opposition Bench was a rare distinction for a man who had been in Parliament for so short a time. A Privy Councillor is entitled to sit on the Front Bench when he chooses, but the invitation given to F. E. Smith

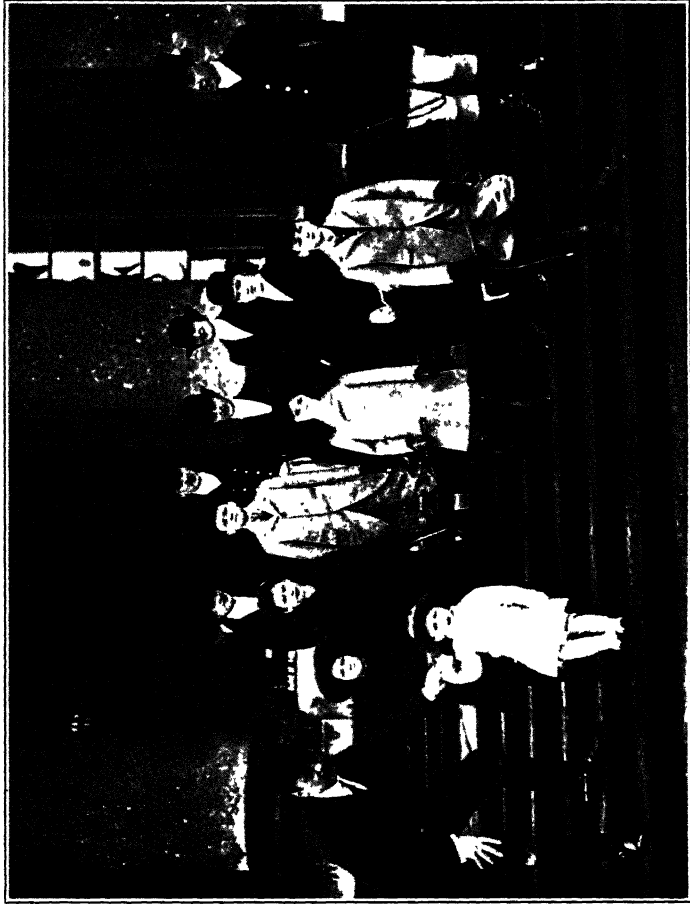
by Mr. Bonar Law with the approval of Mr. Austen Chamberlain and Mr. Walter Long implied that he was to be taken into the council of the Unionist leaders. Even Mr. Lloyd George, when he was leading the Radical party in opposition, was jealously excluded from the council of the party, until the Campbell-Bannerman Cabinet was formed. Few politicians in recent years have made such strides in their first few years in Parliament. Since his maiden speech F. E. Smith had gone steadily forward. He was too cool to be disturbed by adulation; he had not cheapened himself by addressing the House too often, and had always given it his best when he had spoken. He had proved at once that he was not a mere orator, but that he possessed the ready tongue, the active mind and the power of swift reply which stamp the debater as opposed to the orator. He had done as much for the Unionist party in the country as any other member, and was perhaps the most sought after platform speaker in England. The warmth of the congratulations which now poured in on him showed that Mr. Bonar Law could not have taken a step more welcome to the rank and file of the party than to call him into its inner councils.

THE CORONATION SUMMER (1911)

THE constitutional struggle in Parliament, which left in its wake such bitter memories, was contested against a glittering social background. The Coronation summer was one of feverish gaiety. It was almost as though some unnatural prescience had warned men and women that they must dance and live their lives in the brief sunshine before the awful deluge broke upon their country. It was the battle of politics, waged in an eighteenth-century richness of setting. The women followed and echoed their husbands' creeds with an eager conviction, and the antagonism between the parties was fed by five years' Liberal dominion.

January 1, 1911, found F. E. Smith and his family spending the Christmas at Blenheim Palace. These Christmas parties were given for the Duke of Marlborough's sons, Lord Blandford and Lord Ivor Churchill. All the Duke's friends brought their children—the Ashby St. Ledgers, Mr. Winston Churchill and his wife, his brother Mr. Jack Churchill, and Mr. Cecil Grenfell who, as a gentleman rider, had finished second in the Grand National. All the children had their ponies on which they raced up the gentle green slope to the monument, and on which they rode out from the Blenheim stables to take part in the thrilling paperchases in which F. E. Smith appeared as an elusive and resourceful hare.

There was something quite unforgettable about the atmosphere of Blenheim. The children who were taken there for the first time entered an enchanted land when they left the torpid streets of Woodstock and passed under the first grey arch into the possessions of the Duke of Marlborough. On their right was that great artificial basin of water, on the farther side of which a range of woods ascended and gently commanded the horizon. The slim monument rose abruptly from the



CHRISTMAS GROUP AT BLENHEIM

Reading from left to right.—Major John S. Churchill, Veronica Duff, John Churchill, Lady Noah Spencer-Churchill (back), the Hon. Ursula Spencer (front), the Marquess of Blandford, the Duke of Marlborough, Mrs. F. E. Smith (back), Eleanor Smith (front), Mrs. Winston Churchill, the Hon. Ivy Spencer, Lord Ivor Churchill, and F. E. Smith.

centre of the woods. Sometimes the great lake was frozen, and the woods were white with winter. Then the landscape assumed the expression of an arctic fairy land. On the wooded eyot in the centre of the lake the trees were powdered with rime, and a thousand skates went ringing over the surface of the water. The visitors passed through arch after arch until they turned to the left and approached the front of Blenheim and disembarked humbly in front of Vanburgh's monument.

There was a scent, an atmosphere which was the monopoly of this great house. It was an uncharted land of romance and adventure for children. Once they had passed through its doors they had stumbled upon a new land of enchantment and delight. Every aspect of the Palace invited exploration—the great hall with its radiators on which the children lay on their backs and gazed at the painted ceiling, at the royal blue sky and the goddesses, the dark turreted stairs, the haunted rooms, and the long library with its elusive scent, its faded bearskin rugs, the imprisoned books, and milk-white statue of Queen Anne—and at its farthest end the Willis organ, rearing itself above the bookcases, on which Perkins, the organist from Birmingham, thundered forth the fugues of Bach or whispered the seductive melodies of Mendelssohn.

The children dressed themselves up: played hide and seek down the dark corridors of the Palace—skulked, shivering in the sinister haunted rooms of Dean Jones and plucked from the two great screens in the hall the relics of Marlborough's campaigns—the knotted ropes, the grooved rapiers down which had once trickled the warm blood of Frenchmen, and the silken standards which had survived the fields of Oudenarde, Malplaquet and Blenheim. In the day-time the children played in the green widespread gardens of Capability Brown where long paths traversed either side of the great lake, and led into tranquil unexpected rose gardens, and revealed grey and weatherbeaten temples.

In April F. E. Smith and his wife stayed at Belvoir. After dinner they played charades. Sir Thomas Beecham was a member of the house party; F. E. Smith looked at him, and was at once impressed by his dignified and distinguished bearing. But the art in which Beecham excelled was to F. E. Smith as unintelligible as an Assyrian Cuneiform. After dinner Beecham would sit down to the piano and play for hours from the fund

of his inexhaustible memory. All the women of the party would gather eagerly round the piano and would watch the lissom fingers exercising their subtle generalship over the keys. F. E. Smith strongly resented this encroachment on his conversation, and waited sullenly for his revenge. He saw his opportunity when the game of charades was proposed. Beecham had to ride on F. E. Smith's back in a horse-race against the other guests. F. E. sulkily allowed Beecham to mount; the couple were strongly fancied—F. E. was powerful and mobile, Beecham a light and enterprising jockey. F. E. Smith waited until they were in sight of the winning post, and then slowly kicked Beecham off.

On Empire Day F. E. Smith and his wife gave a great Fancy-dress Ball at Claridge's with Lord Winterton. They dined first at a great dinner party given by the Duchess of Marlborough. The dresses at the Ball were brilliant; Prince Yussupoff, then Count Elston, and later notorious for his inefficient butchery of Rasputin, appeared in a flounced Russian uniform. He was an extraordinarily beautiful young man with his clear blue eye and classical profile. The Duchess of Rutland also wore a Russian costume, and Lord Duncannon panted over the floor in a violent Apache dance with Mrs. Cyril Ward. Lord Lonsdale's weatherbeaten face surmounted a hussar uniform; Lord Winterton was a French soldier.

F. E. Smith slipped back into his natural century, and received his guests in the white wig and white satin knee-breeches of the eighteenth century. The Duchess of Marlborough's famous jewels glittered on a Louis Quinze dress. A Red Indian chief was one of the first to drive up to the entrance of Claridge's: he drove himself, and was glanced at curiously by the other chauffeurs. Next a figure which at first sight appeared to be a Territorial alighted from a closed car: it was Lord Wolverton carrying a staff in his hand. "Welcome to the boy scout," said F. E. Smith, extending a hand to receive him.

What would Mr. Churchill's disguise be? There was much speculation; some suggested a fireman, others rather unkindly, a peer. He came, however, as Mr. Churchill, and his only concession to the evening was a red Venetian cloak, and a domino. Mr. Asquith and Mr. Balfour appeared in ordinary evening dress, Lord Charles Beresford in sepulchral black, with a black false-nose and a black veil. The swarthy black-bearded

Macduff was afterwards revealed as Harold Smith. Lord Charles Beresford was suddenly accosted by Queen Anne, who lifted his false-nose with the disappointed exclamation: "Why it's only Charlie!" Mr. Lowther, the Speaker of the House of Commons, was an Arab, shooting stern glances at the young politicians with their dominoes and their jewelled snuff-boxes. Lady Cunard surveyed them through the slits of a yashmak: Mrs. Ralph Peto was a Bacchante, Lady Fitzwilliam the "Blue Bird of Happiness."

Everyone tried to act up to his assumed character. At midnight a peer in robes of state advanced towards the ballroom, bearing the number 499 in large letters on a card above his coronet; on the reverse side was printed: "Still one more vacancy." He was greeted with loud laughter, renewed when he was revealed as Mr. Waldorf Astor. Lady Crewe, in white and gold as the goddess Ceres, wore a vast headdress of sheaves of corn; Mrs. Willie James was a broad-skirted Spanish danseuse. Mrs. J. J. Astor was Juno, dragging after her a large peacock on wheels, whose spread tail cleaved for her a constant passage through the crowd. Lady Desborough was dressed in the shimmering gold and black sari of a high-caste Indian lady. The Marquis de Soveral arrived in evening dress, but on the threshold was reluctantly pressed into a domino. By twelve o'clock Crusaders, Albanian brigands, Blue Hussars, Pierrots and Arabs were swinging wildly round the ballroom, and continued to do so until five in the morning.

F. E. Smith went out with the Yeomanry in camp that year. The camp was in Blenheim Park. The Duke gave a great ball; the guardian ropes in the state rooms were taken away, and the gardens were lit with twinkling lanterns, and the bright Yeomanry uniforms shone against the women's dresses.

It was the hottest summer for years. Day after day passed steamy and languorous. At Greenwich the thermometer crept towards the hundred degrees. Every night in London there were great balls and dinners. F. E. Smith and his wife appeared at the Shakespearean Ball at the Albert Hall, where different people had arranged the quadrilles. There was the "Lovers" Quadrille, arranged by Lady Tree. The ball took place on June 20. F. E. was Hamlet, his wife Olivia. They gave a big dinner in their library at Eccleston Square before the ball, at which were present the other dancers who were to take part

in the quadrilles—the lovely Maxine Elliot, Lady Diana Manners, the Forbes-Robertsons, Lord Granby, Miss Viola Tree, and Mr. Alan Parsons.

In those brilliant few years before the War the great hostesses sang their swan songs; entertainment on such a scale was never seen again: they vied with one another in the extravagance of their receptions—in the concoction of new and brilliant ideas. Every night was one of high colour and feverish gaiety. Every night F. E. Smith sat up into the small hours of the morning: in the light of day he was the most active barrister in England, and was making frequent and carefully meditated contribution to the House of Commons, ranging from platform to platform all over the country, freely using his pen and regularly riding and hunting. His stamina was almost superhuman.

On June 22 the Coronation took place. F. E. Smith did not go to it, but by 7 a.m. Mrs. Smith was ready in full evening dress and feathers. She went with her sister-in-law and Harold Smith to the House of Commons, where they had breakfast. Then they walked across to the Abbey, where Mrs. Smith sat for 4½ hours watching a scene which never left her memory—the Coronation and anointing of the new King. Luncheon in Westminster Hall followed, the peers strolling about in their robes with coronets cocked at jaunty angles.

Next night they dined with Mrs. George West [Lady Randolph Churchill], and walked out into the dark streets to see the gushing flares outside the clubs in Pall Mall. Next day they watched the Royal Progress from Admiralty House, and then motored down to Exbury for the naval review. July was hotter than any month of the summer: every night there were dinner parties, balls and receptions, and the week-ends were always spent away from home—often at Stoke Court, where the Alhusens gave the parties at which one met actors, politicians, writers and musicians—at Osterley, where F. E. Smith had long and delightful conversations with the brilliant Lady Jersey. Then they returned on Monday, and plunged into nightly dances and steaming heat.

They attended the air-race for £10,000 at Hendon and watched the primitive monoplanes as they lurched drunkenly round the pylons. Mr. Cody swooped down from the sky and flew down the road that led to the aerodrome a few yards above



MRS. F. E. SMITH (The Countess of Birkenhead)

the heads of the cowering crowd. Soon afterwards he was killed. From Hendon they drove to stay with Sir Edward Gouling at Wargrave, where they arrived late, for the roads were congested with Hendon traffic. There Mr. Tim Healy, Mr. Garvin, Mr. Bonar Law and Mr. Max Aitken wrangled about the veto, and the creation of peers. On Monday F. E. Smith began his preparations for the dinner to Lord Halsbury. The great heat continued: on July 26 the dinner took place; Lords Halsbury and Salisbury, the Duke of Northumberland, Lord Hugh Cecil, Mr. Austen Chamberlain, Sir Edward Carson, F. E. Smith, and the Duke of Marlborough, all these were speakers. Mrs. Smith listened from the gallery. On Friday night it was hotter than ever: they dined with the Rupert Guinnesses, and sat up all night playing *chemin de fer*. At the end of the month they retired exhausted to their home in Northamptonshire.

In June, 1912, the Yeomanry were again in camp at Blenheim. All through June the fantastic entertainments continued. There were brilliant parties at Lady Charles Beresford's, a great figure in Mr. Lowther's gallery, and an outspoken and audible critic of the debates. She and Lady Londonderry could never contain themselves in the gallery when passions were high and party feeling acute. These two virile-minded women threw twentieth-century politics out of gear. They drew it back to the days of Bolingbroke—to the bitterest era of party politics, when the Whig and Tory women distinguished their politics by their patches, and sat hugging a mutual loathing on different sides of the theatre. One day Mr. Lloyd George was speaking in the House; F. E. Smith was to reply. Lady Londonderry listened to him for a few moments; she began to fidget in her seat, and soon broke into explosive comment.

There were angry rustlings of feminine antagonism. Mrs. Smith sat in troubled silence. Then Miss Violet Asquith looked round furiously. At last she sent down a note to the Speaker, Mr. Lowther, asking that Lady Londonderry, Lady Charles Beresford and Mrs. F. E. Smith should be removed from the gallery. Mr. Lowther was coping with a restless and difficult House; this appeal from above disturbed him. He took a pad and scribbled a note to Miss Asquith: "I am too busy with the devils below to spare any time for the angels above!"

The great dinners continued—at Lord Farquhar's, where the delicate joints were chosen by the host himself, and with the Aga Khan at the Ritz, where they watched the arabesques of Karsavina and the sinuous movements of Nijinsky, and listened to McCormack's rich tenor.

The tournament at Earl's Court followed, engineered by Lady Randolph Churchill in imitation of the great Eglinton tournament. F. E. Smith was to be one of the knights in the "mêlée". The armour was brought to him for his inspection. It looked very heavy and very hot; at the last moment he decided to substitute his brother Harold. The knights jousted in the ring, on large and passive carthorses. Harold Smith disliked the whole affair; he had scarcely ever ridden before and never jousted. The Duke of Marlborough was the *pièce de résistance* in the tilting yard. He was a light man, and the most brilliant horseman in Leicestershire. He careered his way through the opening rounds with glittering armour, and devastating lance. In the end he was unhorsed by an unknown knight. The ladies in the galleries were thrilled. It was the best that the material twentieth century could offer in comparison with the scene in *Ivanhoe*, when the "Disinherited" knight touched with the *sharp* end of his lance the Templar's shield. Who was the unknown knight? Everyone thought that they knew; it was the Duke's cousin, Lord Ashby St. Ledger, now Lord Wimborne. The unknown knight raised his visor, and it was found that another dexterous substitution had taken place when there were revealed the familiar features of Mr. Freddy Guest.

The Queen of Beauty was to present the prize. She was Lady Curzon, now Lady Howe. Who was entitled to it? There was a great deal of discussion. The tournament was a beautiful sight. It was the first time within living memory that the sun had shone on armour and horses moving over the turf, and on lances clashing in violent and almost genuine conflict. Commercially it was not successful. The seats were expensive, and there were large and discouraging gaps in the audience, while many thought that there was an element of farce about the proceedings. F. E. Smith was amongst these.

CLOSING DAYS AT THE BAR (1911-14)

IT is time to return to F. E. Smith's work at the Bar, which had become more varied and more exacting than ever while the Home Rule controversy raged. We must be content to record a few of the more notable or sensational cases in which he was concerned.

THE MARCONI SCANDAL—*REX v. CHESTERTON*

During the years 1912 and 1913 a *cause célèbre* flamed over the country and even troubled the high places of administration, the Marconi share scandal which culminated in the famous Marconi libel action.

Up to 1897 wireless telegraphy was in its infancy. It had its origin in Clerk-Maxwell's theory of electro-magnetic waves, which was verified experimentally by Hertz in 1888. Six years later, at the Oxford meeting of the British Association, Sir Oliver Lodge gave the first public demonstration of "wireless"; he sent Morse signals over a few hundred yards and received them by means of a Thomson galvanometer such as had been used in cable telegraphy. Two years later the young Italian inventor, Signor Marconi, introduced the name of wireless telegraphy, and contrived to interest the British Post Office in his ideas. By the end of the nineteenth century Marconi and others had developed the new system sufficiently to justify the formation of a company. As yet its powers were potential rather than actual. They extended only to short-distance communications on land and, more important, to contact between ships at sea. We have noticed already that it was used to cut off Crippen from refuge in America. As the years passed, the range of its possibilities expanded and it became possible to communicate from country to country across the seas. Marconi was still Managing Director of the Company, but by 1910 he resigned

owing to pressure of scientific research and was succeeded by Mr. Godfrey Isaacs, brother of Sir Rufus Isaacs, K.C., then Attorney-General. It was against Mr. Godfrey Isaacs that the subsequent libellous statements were directed.

As the range of wireless telegraphy increased, the enterprise of the directors of the Company suggested a scheme for spanning the world by a linked-up system of wireless stations, which would enable messages to be flashed to all quarters of the globe. In 1910 they applied to the Government for a licence to erect such a chain, such permission being rendered necessary by the fact that the stations were to be erected in countries inside the British Empire.

The Government was represented in this matter by a body drawn from representatives of all the Government departments—War Office, Foreign Office, Colonial Office, India Office, Treasury, Post Office and Admiralty. The name of this committee was The Cable Landing Rights Committee. It was a standing body, presided over by the Secretary to the Board of Trade. The duty of this body was to go carefully into any application of this sort, and with the advice of experts to report on its feasibility and its possible reactions from the economic, imperial and strategical point of view.

The Committee examined the Marconi claim with great care, and approved it, but they were convinced that the whole conception was too great and too far-reaching for the project to be allowed to remain in private hands in the control of the Company.

A little later, at the Imperial Conference, a motion to the same effect was carried by the Prime Minister of New Zealand. By June of the following year, 1911, all the bodies to whom the consideration of the scheme had been referred, reported that it was greatly to the public interest that the plan should be set in motion. Its execution was given to the Post Office, under the direction of Mr. Herbert Samuel, the Postmaster-General, who formed the Imperial Wireless Committee, which was again recruited from the various Government departments. It was a signal tribute that was paid to the Marconi Company when the Committee decided that the equipping of the stations should be put out to contract, and that the Marconi system should be adopted over the heads of all others. In December the State opened up negotiations with the Company through the agency of the Postmaster-General. The Managing Director,

Mr. Godfrey Isaacs, negotiated on behalf of the Company, and after long haggling the two parties arrived at the following terms. The Government was to spend £360,000 on building six stations, which were to be equipped by the Company, which was, in addition, to make over to the Government licences for all patents, present and to be, and to give it technical advice in return for a royalty of 10 per cent.

The contract was to be operative for twenty-eight years, but there was to be a break clause at eighteen, and no further payments were to be made if at any time Mr. Samuel decided to cease using the Marconi System. The two master patents of the Company were valid for three and seven years respectively. Further difficulties and complications arose over the actual drafting of the contract, but these were gradually smoothed away by the legal and technical experts and the contract was finally signed on July 17, 1912, and only needed the sanction of the Commons, which of course meant that for the first time the terms of the contract would be made public; no detailed knowledge of the contract had leaked out before its examination in Parliament. The loss of the *Titanic* on her maiden voyage with many hundreds of lives, on April 14, 1912, had convinced the whole world of the need for wireless, and speeded up the last stage of these long negotiations.

By now the Marconi Company, which had developed rapidly since its formation, was paying regular dividends. It was now two years since the first declaration had been made, and there was by this time a yield of 20 per cent. on the ordinary shares. These were profits quite unconnected with the new contract and were prior to it. Mr. Godfrey Isaacs had been most active in preserving the integrity of his Company's patents, particularly in America, where accompanied by Marconi himself he had litigated successfully in its interest. While in America he discovered that it was necessary to reorganise the American Marconi Company, in the yield of which the English Company as a principal shareholder was powerfully interested. The American Company had no such interest in the English Company; nor had it the slightest possibility of profit from the English Company's contract and association with the Post Office.

Amongst other details of reorganisation, the English Marconi Company placed the American Company's additional capital, representing a share value of about a million and a half pounds

—1,400,000 shares at \$5 each. It was impossible to do so in America owing to the extreme discredit which had been brought upon the wireless industry there in the process of competition. Mr. Godfrey Isaacs and the Company's jobber divided the bulk of the responsibility, Mr. Godfrey Isaacs making himself responsible for 500,000 shares and placing 350,000 in the hands of the jobber. It was at this point that trouble began. Mr. Isaacs came back to England and offered shares to his brothers. Sir Rufus Isaacs decided to keep aloof from the affair but the other brother took over 56,000 shares, 10,000 of which he persuaded Sir Rufus to take over. Sir Rufus did not hold all the 10,000, but disposed of 2,000 which went to two other members of the Cabinet. The impact of the shares on the stock market exceeded all hopes; there was an immediate boom in the shares of both Companies, which soared to high premiums. Such was the condition of the market when the contract came up for the sanction of the House of Commons on October 11, 1912.

When the terms of the contract were published, they were at once attacked, both inside and outside the House, chiefly on the ground that too generous terms had been given to the Company. The criticism of Members of Parliament was followed up by a campaign in the Press, and it was at this point that the late Mr. Cecil Chesterton began a series of violent articles in a weekly paper which he edited, the *New Witness*—a successor of the short-lived *Eye Witness*. He sent sinister rumours floating out from the editorial office, hints of Cabinet Ministers buying Marconi's on the leakage of official information. The murmuring grew so loud that it was thought necessary to hold an enquiry, and the House of Commons set up a special Committee. Mr. Cecil Chesterton was not warned: animated by a bitter hostility towards the Jews and their encroachment into politics, he persuaded himself that not only was the contract a bad one, but that there had been a dishonest collusion between Mr. Samuel, Mr. Godfrey Isaacs and Sir Rufus Isaacs by which the Treasury was to be tapped for the benefit of the Marconi Company. Chesterton really believed in the truth of his accusations; his attitude was that he was exposing a public scandal. He went further and delved into Mr. Godfrey Isaacs's past, was able to show that he had been connected with various unsuccessful ventures, and pressed forward his attack. At first Mr. Isaacs treated the accusations with contempt, but

every day the attack grew in strength. When he left his office, placards were waved in his face by vendors posted there by Chesterton. He was harried by shrill abuse and his life was made unendurable. He decided to prosecute; everybody knew that Chesterton was at the bottom of all these attacks: indeed he made no effort to deny it. He was committed for trial at the Old Bailey on six different charges of libel, five of which were said by the defendants to be true, and also matters of fair public comment. It was now the duty of Chesterton's counsel to prove the truth of his allegations.

The trial lasted from May 27 until June 7, 1913. It spread over ten days and was heard by Mr. Justice Phillimore. Sir Edward Carson and F. E. Smith led Sir Richard Muir for the prosecution. Mr. Rigby-Swift, K.C., and Mr. Ernest Wild, K.C., led Mr. Gordon Smith and Mr. Purcell for the defence. The prosecuting counsel had to show that the allegations had indeed been published by Chesterton and that they were defamatory. The prosecutor wisely resolved to go into the box himself and allow his witnesses to do so before the defendant's case was begun.

The prosecution had little difficulty in tracing in full the details of the negotiations for the contract and of showing the absurdity of the charges. Hours were spent in cross-examining Mr. Samuel, Sir Rufus Isaacs, Mr. Godfrey Isaacs and Signor Marconi.

Great stress was laid by the defence on the fact that Chesterton's attack was perfectly honest, even if misguided, but Mr. Justice Phillimore pointed out that Chesterton was not being prosecuted for issuing a malicious libel, a more serious charge, and that it was no defence of a libel that the defendant really believes in the truth of what he says, but that his statements must be true and in the public interest if they are to be published with safety. It was urged for the defence that the politicians were the sole targets of attack, but this did not assist Mr. Chesterton's case. Also it was claimed that no slur was intended on Mr. Godfrey Isaacs, who was perfectly entitled to bargain as closely as he could on behalf of the Marconi Company. But there were certain phrases used which could not be explained in this way. Chesterton had alluded to the "corruption" of the deal, had spoken of "conspiracies" and "hands in the till". The defence did not spare Mr. Isaacs's past, and at this distance

there is no object in reviving their accusations, but the evidence and verdict showed them to be both malicious and false. Finally the five counts completely failed and after a fair and detailed summing up by Mr. Justice Phillimore, the jury convicted the defendant, and the prosecution had succeeded.

The judge was greatly perplexed as to what course to take with Chesterton. Mr. Godfrey Isaacs was in no way revengeful. His character had been publicly vindicated, and that was all he desired. Mr. Justice Phillimore, in pronouncing sentence, said that he was in some doubt as to whether he should send Chesterton to prison, in view of the violence of the attack and the pain it had caused. But, since the attacks were launched in perfect honesty he allowed Chesterton to go free after paying the very heavy costs of the prosecution.

Thus the case ended and Mr. Isaacs was cleared. Perhaps its most serious aspect was the high public position of some of those involved in it. If the action had not succeeded some of the most distinguished men of the day would have been driven from public life on the eve of the Great War. F. E. Smith's mode of cross-examination is well illustrated in the way in which he dealt in this case with Andrew Alfred Lockwood, one of the principal witnesses against Mr. Godfrey Isaacs. Cross-examined by F. E. Smith, the witness said that he was quite clear about the conversations he had had with Mr. Isaacs. Before he had become connected with Welsh mines he had had great experience in mines and mining companies. He had never been associated with a "bogus" venture. It was quite true that since Mr. Isaacs had accused him of appropriating gold his relations with him had been unfriendly.

Mr. Smith: "I think on one occasion that you threatened to shoot him?"—"I remember once knocking him down. If I had been a younger man in another country I should have shot him."

Mr. Smith: "Is that the kind of man you are?"—"I have never robbed anyone in my life," declared the witness, "and if any man had called me a thief, by God, Sir, I would have killed him."

Mr. Smith: "That is the feeling you have towards him?"—"Not now, when I was a younger man."

"When did you give up your shooting habits?"—"Oh,

many years ago when I became a married man and the father of a family."

"And since then you have abandoned what I might call the 'shooting method of argument'?"—"I have been through two campaigns, and have then shot people."

The Judge: "You have done enough shooting?"—"I had to protect my wife and family in those days in New Zealand."

Mr. Smith: "But these shooting habits were before you married, weren't they?"—"I had to shoot after I was married, to protect my wife and family from the natives of the country."

Mr. Smith: "You knocked Mr. Godfrey Isaacs down one day?"—"When he grossly insulted me."

"Was that another insult?"—"The time I knocked the man down was when they wanted me to sign a paper stating that the yield of the mine was worth 15 dwts. to the ton."

"You say 'they'?"—"I mean Mr. Isaacs."

"Did anybody else propose that?"—"No." Witness added that his son was present when this proposition was made.

"Was he present when you chastised Mr. Isaacs?"—"No."

"When was that?"—"About January 1891."

"Was that before Mr. Isaacs accused you of misappropriating the gold?"—"Yes."

The Judge: "Notwithstanding the fact that you knocked him down, he had the audacity to accuse you of misappropriating gold?"—Witness: "Yes."

The Judge: "That time you did not knock him down, or produce a pistol?"—"No."

The Judge: "You did nothing?"—"No."

Mr. Smith: "You really ask the jury to accept that as a statement of the facts! You had knocked Mr. Isaacs down for making one insulting proposal to you, and when he mentioned another criticism or charge against you, which you will agree was more insulting, you ask the jury to believe that you allowed him to do it after he had been knocked down once?"—Witness: "I hope the jury will believe me. I controlled myself."

"You wrote, no doubt, to the Board to complain of these charges he had brought against you?"—"No."

"Of course you fully understood that Mr. Isaacs charged you with being a thief?"—"Quite correct."

"And you were not a thief?"—"Certainly not."

"And you greatly resented being charged with being a thief?"—"I did."

"There were other directors, besides Mr. Isaacs, concerned in this company, and those other directors were in some respects as much your employers as Mr. Isaacs. Did you complain to your other employers that one of their number had charged you with being a thief?"—"Certainly."

"By letter?"—"No. I complained to them personally."

"No doubt you informed them at the same time that Mr. Isaacs had made that first insulting proposal to you, which you resented by knocking him down?"—"I am not sure whether I did."

"It would be your duty, wouldn't it?"—"Yes, I suppose it would. I am not clear, but it is very likely I did mention it."

"When Mr. Isaacs made this proposal to you you realised it was a fraudulent proposal?"—"Certainly."

"A thing for which a man ought to be put in gaol?"—"Certainly. That is what I say now. He ought to be where Mr. Chesterton is."

"You were concerned with the good name of the Company?"—"Certainly."

"Did you or did you not think that the other directors were entitled to be informed that one of their number was recommending fraudulent proposals to you in relation to the business of the mines?"—"I must have mentioned it to them." Further pressed, however, witness would not swear that he had done so.

Mr. Smith: "Can you point to a shred of evidence concerning your statement that you ever mentioned it to them?"—"No, I cannot."

"Can you pledge your oath in the name of one director to whom you ever mentioned it?"—"No."

The witness was asked further questions and said that Mr. Isaacs frequently asked him to falsify reports, but he admitted that subsequently he met Mr. Isaacs and another director, Mr. Wells, at dinner.

Mr. Smith: "This was the man whom if you were young and unmarried you would have shot. As you were old and married you dined with him." (Laughter.)

Sir Rufus Isaacs sent his thanks after the verdict.

32, CURZON STREET,
MAYFAIR, W.

MY DEAR F. E.,—

I am more deeply grateful to you than I can express for all you have done in my brother's case, and for the triumphant result. I thank you very, very warmly and not least for your courage and loyalty. The Bar will ever remember the part Carson and you played in this matter. You have both behaved so generously and indeed magnificently.

Yours ever,
RUFUS.

F. E. Smith and Sir Edward Carson felt that, as they had, in the ordinary practice of their profession, been engaged to present the case for the Marconi directors and their friends, they could take no part in the violent political controversy which arose out of these incidents. Their attitude was much criticised at the time by ardent Conservatives who saw in the Marconi affair an opportunity of discrediting leading members of the Government. But it cannot be doubted that Smith and Carson took the right course in holding aloof from this bitter and unpleasant dispute.

THE SACKVILLE CASE

The Case of the Disputed Will

The case of *Capron v. Scott* in which F. E. Smith played a leading part in 1913 was one of the most romantic domestic dramas of modern times. By his will and codicils Sir John Edward Murray Scott, Bart., left the larger part of an estate valued at £1,180,000 to Lady Sackville, and the small residue to his own family. The specific bequests included £150,000 in cash; the magnificent art collection at his house in the Rue Laffitte, Paris, valued at £350,000, and a number of extremely valuable *objets d'art* such as Queen Catherine Parr's diamond necklace, a bust of Sophie Arnould by Houdon, and an enamelled silver chandelier that had belonged to Marie Antoinette.

Lady Sackville was the wife of the third Baron, who succeeded his uncle, the second Baron, in 1910, when that uncle's natural son failed in a long action to establish his legitimacy. He had

married his cousin Victoria, daughter of the second Baron, in 1890, and he died in 1928. His brother Charles succeeded him. His daughter Victoria Mary, or "Vita", born in 1892, is the wife of Mr. Harold Nicolson and is well known as a novelist.

Sir John Edward Murray Scott, Bart., had died on January 17, 1912, leaving a will and codicils. He had left for Lady Sackville a sealed envelope addressed to Mrs. Sackville-West, to be opened "should there be any disposition to dispute my will". It was opened by the judge in the Probate Court, in April, 1912, and found to contain an affectionate letter and a duly executed codicil. The probate action of *Capron v. Scott* arose out of the will, and was heard in June and July, 1913.

Mr. F. W. Capron, one of the executors, propounded the will of 1900 with five codicils of 1908 and 1910. The testator's brother, Mr. Donald Maxwell Scott, entered a defence and counterclaim, alleging undue influence on the part of Lord and Lady Sackville, and pleading that a codicil of 1910 or 1911, which could not be found, had revoked the bequests to Lady Sackville and given her reduced benefits, as was shown by a draft of the codicil. Mr. Barnard, K.C., and Mr. Willock, appeared for the plaintiff, F. E. Smith, with Mr. Hemmerde, K.C., for the defendant, and Sir Edward Carson, K.C., and Mr. Norman Craig, K.C., for Lord and Lady Sackville.

F. E. Smith opened the defendant's case in a two days' speech of 8½ hours on June 24 and 26. Sir John Scott, who was born in 1847, was the son of Dr. John Scott, an English doctor at Boulogne, who was a close friend of Sir Richard Wallace, the protégé and heir of the fourth Lord Hertford. When Lord Hertford died in 1869 he left his vast fortune and his famous art collections to Sir Richard Wallace, who took the younger Scott as his secretary. Dr. Scott and Sir Richard Wallace both died in July, 1890. Lady Wallace then had the Scott family to live for part of the year with her. She died in February, 1897, aged 79, and left the Wallace Collection at Hertford House to the Nation, and the remainder of her property to Sir John Scott, except for £200,000 for charity and in legacies. Her estate included two freeholds in Paris, valued at £250,000, and the villa of Bagatelle, as well as art collections in Paris and Lisbon and property in Ireland.

It was the contention of the defence that this bequest was intended for the Scott family to whom the testatrix was much

attached, and not merely for Sir John. He first met Lady Sackville, then Mrs. Sackville-West, the wife of Mr. Lionel Sackville-West, in March, 1897, among a party he took over the Wallace Collection. Sir John was invited to Knole in 1899, and became a very intimate friend of the Sackville family. It was alleged by Counsel that Lady Sackville, as she had now become, made mischief between Sir John and his family, that she obtained large sums of money from him, amounting to nearly £90,000, and that she gradually took charge of his house in Connaught Place. Details of the many payments spread over a period of years were given; they included a sum of £38,000 to pay off a mortgage on Knole. The lady had Spanish blood in her; she fascinated Sir John, and yet frightened him with her autocratic, strong character, so that he sometimes likened her to "an earthquake". The friends quarrelled in 1911 over a small bill for *pâté de foie gras* sent to the Paris house. Their correspondence, as read by Counsel, seemed to indicate that Sir John had been alienated from Lady Sackville, who in October, 1911, wrote to a woman friend saying that Sir John was making a new will by which she, her husband, and her daughter would get nothing.

The draft codicil found in Sir John's house at his death revoked the legacies made to Lady Sackville, except for a sum of £20,000, and the income on £30,000, and left the bulk of his property to his sisters and nephew. Later letters, while suggesting that he had changed his mind about leaving her his estate, showed that Sir John and Lady Sackville were on better terms. They met on January 6, 1912, and had an amicable talk. Next day Sir John died suddenly at Hertford House.

The sealed letter was addressed to "ma chère petite amie". It conveyed "my last farewell and the renewed expression of my sincerest gratitude for all your affectionate kindness to me. It will be found that I have left to you in my will a goodly portion of my *objets d'art*, furniture, etc., and also a sum of money, which I trust will make you comfortable for life, and cause all anxiety as to your future ways and means to cease. You know the love and affection I have always had for dear little Vita".

The members of the Scott family went into the witness-box, and gave evidence as to the dominion exercised over Sir John by Lady Sackville. Major Arbuthnot, an old friend of Sir John's, said that, accidentally entering his library one day, he

had seen Lady Sackville and her daughter at a writing-table with the centre drawer open, and that when he afterwards told Sir John about the incident Sir John had "a nerve storm" which lasted for several minutes, and muttered "Ah ! mon Dieu, c'est incroyable !"

Sir Edward Carson made a desperate effort to show that there was no case to go to the jury, but the President, Sir Samuel Evans, ruled against him. Sir Edward then opened his case at length, in reply to the "vitriolic blackwashing of Lord and Lady Sackville and to trivialities magnified by Counsel which afford so splendid an example of Mr. Smith's great powers of mesmerism and fascination". Sir Edward enlarged on Lady Sackville's suggestion that Sir John's brother, Mr. Walter Scott, had made love to her—a suggestion which Mr. Walter Scott had denied absolutely in the course of his evidence, saying that she had, in fact, tried to trap him into a flirtation which she could report to his brother, and thus injure him.

Lady Sackville described her friendship with Sir John in a wealth of detail, and denied incidentally that she had been in his house at the time when Major Arbuthnot thought he saw her there.

On June 3 and 4 Lady Sackville was cross-examined by F. E. Smith. She was a woman of a brilliant and masculine mind. Many of his questions splintered in vain against her defences. She denied that she had received large sums from Sir John. "When he gave sums of money to my husband and to my father, it was to benefit Knole, not me." She held fast to her assertion that Mr. Walter Scott had made love to her. "I suggest to you", said F. E. Smith sternly, "that your story of what took place on this occasion is false." "How dare you say that?" said Lady Sackville. "What I have said is true. Why did he get up in the middle of the night to speak to Sir John?"

"Had you not better let Sir Edward Carson argue that? You understood that Walter invited you to become his mistress?"

"I thought he asked me to give up Sir John as a friend, and take him as a friend."

An extraordinary dialogue followed.

"Do you mean to say that Mr. Walter Scott went down on his knees, and began to pour out his love?"

"I do."

"Was he stoutish then?"

"The same as he is now."

"When you went to the door he followed you on his knees, like a man who has had his legs cut off at the knees?"

To the amazement of the Court Lady Sackville dropped on to hands and knees and began to illustrate the amorous crawl of Scott in vivid pantomime. She went on:

"Yes, it was the most ridiculous thing I have ever seen."

"Did you walk to the door faster than he waddled or did he waddle faster than you walked?"

"I do not know; it was dreadful."

"He must have had quite a long walk?"

"Quite long enough to look absurd."

Witness went on to say that she did not tell Sir John the true facts after he had Walter's version, because she did not want to wreck Walter's future, and because Sir John had told her that he was very ill. She objected most strongly to the production of her letter to Mrs. Cooke dated October 26, 1911, in which she said Sir John had told her that he was altering his will, "leaving all that he had dangled for ten years before my weary eyes away from us three".

"It is the lowest thing I have seen in this case," she cried, "except the evidence of Major Arbuthnot." She could not explain the expression "my weary eyes". Lady Sackville declared that her allowance from Sir John was only £100 a year, though he had discussed many times his intention of leaving her larger amounts. When she was examined as to her banking account she said that Sir John's large cheques were not for personal use. Sir John's sisters "were not congenial" to her. "As to the jewels to be worn by the Misses Scott at Buckingham Palace [jewels from Hertford House], the matter had not been discussed with her."

F. E. Smith. "I thought you said it was."—"I did not."

Sir Edward Carson. "You really misinterpret everything she says."

F. E. Smith. "A grossly improper statement without any warrant."

Sir Edward. "I am not going to take any notice of your ill-temper, I've been too long at the Bar for that, but, my lord, I do object to such inaccuracy."

The President. "Mr. Smith does not mean to be inaccurate, but he is sometimes so, in fact."

F. E. Smith. "What I resent is the suggestion that I am intentionally misrepresenting the witness. My friend ought to know me too well for that."

Sir Edward. "My lord, I am not in the least inclined to be bullied."

Witness said that she had noticed a great change in Sir John after his illness in 1908. "He became very grumpy and very exacting, and she could not call her soul her own." She gave in a list of payments made to her by Sir John amounting to £25,000 in twelve years, including £2,000 for "Vita's" pearls, £4,800 for presents, £9,000 to the second Lord Sackville, and £5,000 for "buying back Knole silver".

Lord Sackville gave evidence to the effect that half the sums alleged to have been given to him and his wife were loans on Knole mortgages, which were afterwards released by Sir John, who at the same time revoked a legacy of £30,000 to him.

F. E. Smith in his speech for the defence urged that Sir John Murray Scott was obviously not a man of strong will; he was constitutionally incapable of asserting himself. On the other hand, the jury had heard Lady Sackville. He asked them whether they had ever seen a woman of so dominating and assertive a character. They had seen, he said, in Lady Sackville, one of the strongest personalities on whom they had ever set eyes. He suggested that, after meeting Sir John, Lady Sackville formed the plan of effecting the transfer to her, her husband and her father of enormous pecuniary benefits from Sir John's estate. One of the weapons in her arsenal was the attempt by every means in her power to wean Sir John from the members of his family.

F. E. Smith spoke of "the ridiculous details" with which "that ingenious lady" had chosen to embellish the story of her interview with Mr. Walter Scott. She said that Mr. Walter Scott had renewed his declaration of love, and fallen to his knees. F. E. said that he hoped that Mr. Walter Scott would not think him disrespectful when he hinted a doubt whether if that had been true, Mr. Walter Scott would have been able to rise from them again. [Laughter.]

Later she learned from Sir John that in order to injure her, Walter Scott had uttered against her the cruellest calumny. Yet she had not told Sir John the true facts. She said that she did not do so because she did not wish to ruin Walter. If the

jury formed the conclusion that she was a lady who, smarting under most gross provocation, refrained from telling the truth from generosity to her aggressor, some of the ancient statues of Mercy might be replaced by modern representations of Lady Sackville. F. E. spoke severely of the letter to Mrs. Cooke which he said contained Lady Sackville's real sentiments towards her elderly admirer, and he asked the jury to find that Sir John Scott had made his will when he was under her control and influence.

The case ended on the eighth day when the jury declared for the will and codicils, and against the allegations of undue influence and fraud. The President gave costs against the defendant.

The learned President summed up strongly in favour of Lady Sackville, and the jury took only twelve minutes to decide on their verdict.

THE TURF LIBEL ACTION

(July, 1913)

In July, 1913, F. E. Smith appeared as leading Counsel for Mr. Richard Wootton, the famous Epsom trainer, in a libel action against Mr. Robert Sievier, editor of the notorious *Winning Post*, against the owners of that paper, and against the printers. The case was a special-jury case and was heard before Mr. Justice Darling. It continued for eight days. Mr. Sievier, then famous as the author of the devastating *Personalities in Glass Houses*, was a man whose enmity it was dangerous to court. In this case he had accused the plaintiff of being in a "trainers' ring", and of ordering his jockeys and apprentices to pull the horses they were riding when those horses were not backed by the plaintiff.

F. E. Smith, in his opening speech, recalled Wootton's early experience as a trainer in Australia and South Africa, and his success there as a trainer for Mr. Edward Hulton, proprietor of the *Manchester Evening Chronicle* and other newspapers. He also dwelt on the triumphant career of Wootton's son, Frank, as a jockey. He read out some of the many alleged libels in which the *Winning Post* denounced Wootton and both his sons, Frank and Stanley, of malpractices, and pointed out that the defendants alleged justification and cited what they regarded as instances of foul riding.

Mr. Marshall Hall appeared for the *Winning Post*, but Mr. Sievier conducted his own case, because he wanted to have the pleasure of cross-examining Mr. Wootton. It was certainly a racy interchange of compliments. The witness, when warned by the judge that he must not ask questions of the defendant, said: "But he is so rude to me," to which the judge replied: "But if you are rude to him, he will be ruder still!" Wootton particularly resented Sievier's suggestion that Frank Wootton had "pulled" his horse Stick Up in the Cambridgeshire. Lord Derby, whose evidence was interposed, said that he had retained Frank for two years and had no suspicions of him, though he might have been over-eager to win a race at Newbury. When the plaintiff's cross-examination was renewed, the judge took occasion to remind Sievier that all his questions as to horses sometimes winning and sometimes losing assumed that they ran with mathematical accuracy. "On that basis", he said, "the best authority on racing would be the Astronomer-Royal." Mr. Justice Darling enjoyed every minute of the case, and made frequent and humorous contributions to it from the Bench. His own fancy strongly inclined to the long-stirrup school of racing which went out with Fred Archer, and when Marshall Hall was saying that a certain jockey only got £15 for riding "over the sticks", his lordship remarked: "They will cross the other Styx, if they continue to ride with short leathers."

Mr. Hulton was also a victim of Sievier's cross-examination: he said incidentally that he had lost two fortunes on the Turf, and was "beginning again". Lord Durham and Lord Lonsdale, called for the defendant, gave evidence as to the practice of the Jockey Club in making enquiries into complaints. All the trainers whom Sievier was alleged to have libelled were subpoenaed, and some of them gave evidence with various jockeys and apprentices. It was at this point that the judge made what Marshall Hall considered one of the best jokes he had ever heard in a court of law. Smyth, a seventeen-year-old apprentice of Wootton's, had escaped after riding a race without weighing in. He was severely cross-examined on this point and when Counsel sat down, he rushed out of the box. F. E. Smith had, however, risen to re-examine, "Wait," said the judge, with a mischievous smile. "Mr. Smith has not weighed in yet."

When Sievier opened his case, he called Sir William Bass, the owner of Stick Up. Sir William said that he was dissatisfied

with Frank Wootton's riding of the horse in the Cambridgeshire of 1907. Madden, who rode Dinneford, and Maher, who rode Malna, declared that Frank Wootton on Stick Up took matters much too easily. Smith reminded them that Frank at that time was a little boy of thirteen with small experience. Then another comic witness went into the box, a stable lad named Taylor. He testified that Wootton had ordered him to ride wide at the turn, but he broke down under Smith's cross-examination and was forced to admit that he rarely went to bed sober, had lost good employment through drink, and was out of a job. The exchange ran as follows :

"Have you been drunk often during the last three weeks?"

"Yes, pretty often."

"Have you hardly gone to bed sober in the last three or four years?"

"Very rarely."

Mr. Justice Darling: "There is a maxim that drunken people tell the truth."

"Yes," said Smith, "but that is when they *are* drunk."

He turned to the witness: "Are you sober now?"

"Yes," replied Taylor miserably, his story being now discredited because for the first time in years he was not drunk.

Mr. Dawkins, the official handicapper of the Jockey Club, when asked if he had seen a jockey pull a horse, said, "that he had seen a horse that was not being tried".

Sievier did not go into the box but repeated his allegations in detail in his closing speech. Marshall Hall followed for the *Winning Post*, trying to defend Sievier's decision not to give evidence. Smith, in his closing speech, carefully analysed the evidence about particular cases, and urged that it was wholly inconclusive to support charges which if true, meant ruin for the plaintiff.

Mr. Justice Darling in summing up commented on the large amount of betting that had been done for Wootton's stable, and observed that the manner in which it was done must cause suspicion, especially as Wootton's chief commission agent, Wilkinson, had not been called. The lad Taylor's evidence might or might not be true. "Nowadays it was thought a discreditable thing for a man to go to bed drunk, but one hundred and twenty years ago nobody thought it wrong: so much so that there was a saying applicable to the body to which he

belonged, 'Sober as a judge,' which implied that they were the only people who were sober." The judge also observed of Frank Wootton that it was very unfortunate that "the finest jockey since Archer had been before the Stewards for improper riding more often than any other", and the fact that Frank had been able to save £31,000 in a few years was in itself a temptation to dishonesty.

The jury, after a long deliberation, found that the words complained of were not true in substance or in fact, that they were not fair and honest comment, but that they were published without malice. They assessed the damages at a farthing.

On Friday, July 25, Marshall Hall tried to reopen the question of costs on the ground that one jurymen had written to Sievier's solicitors, apparently saying that each party should have his own costs, and the judge had allowed the other jurymen to be asked for their opinion. F. E. Smith, however, protested strongly, and Mr. Justice Darling made no order, so that the plaintiff got his costs, which amounted to several thousands of pounds. It is interesting to note in conclusion that Lewis and Lewis paid F. E. Smith £1,000 for his services as leader in this one action.

THE RANSOME LIBEL CASE

We may go back a few months so as to bring together the two cases in which F. E. Smith was concerned with the Wilde controversy.

In April, 1913, Lord Alfred Douglas brought a libel action against Mr. Arthur Ransome, author of *Oscar Wilde, a Critical Study*, and against the *Times* Book Club. Mr. J. H. Campbell, K.C., appeared for Mr. Ransome, pleading justification, and F. E. Smith for the *Times* Book Club, who denied that the words complained of bore the meaning alleged, and pleaded that they sold the book in the ordinary course of their business. Defendant's counsel, Mr. Campbell, had the greater part of the unpublished part of *De Profundis*,¹ an 80-page letter, read out. It was the passionate and terrible indictment of Lord Alfred Douglas written by Wilde in the bitterness of his prison exile, which had been deposited by Robert Ross, Wilde's literary executor, in the British Museum. This case was a curtain-raiser to the more famous Ross libel action which followed it, and in which F. E. Smith was retained by Robert Ross.

Mr. Campbell submitted the plaintiff to a very severe cross-examination, but F. E. Smith had merely to ask him a few formal questions. For the defence the manager of the *Times* Book Club described his method of inspecting the books offered for sale or issued to subscribers. He said that he had examined Mr. Ransome's book more carefully than usual and had seen no reason to withdraw it. Speaking in defence of the *Times* Book Club, F. E. Smith observed sarcastically that "after the productions of which the plaintiff was the avowed author, any objection against Mr. Ransome's book was a revelation." Were the *Times* Book Club not to have a book upon their shelves which was unsuitable for a young girl? The name of Lord Alfred Douglas was not mentioned in any part of the book.

The plaintiff "had now thought it proper to challenge the whole association of himself and Oscar Wilde, and asked the jury to pronounce on it". Counsel ventured to suggest that, if there had been a technical defamation, the plaintiff was a man who had no right to be given a farthing of damages. The jury would not be misled by the suggestion underlying the observation that all this was ancient history. It was ancient history, but the plaintiff had chosen to exhume it himself. Years had passed since the fall of Wilde, and men were beginning to be glad to think of the artist rather than of the man's life. And now this legacy of shame had been unnecessarily resurrected. F. E. Smith had broken into an impromptu and moving tribute to Wilde. He said: "We have heard much in this case of the vices of Oscar Wilde. We have heard little of the sufferings with which he paid for those vices, the long-drawn months of his imprisonment, and the squalid agony of his lonely death. It would be wrong if, twenty years after, no word was spoken in this case save one of revilement. That unhappy child of genius is not least unhappy in this, that at a moment when his lustre as an artist surviving death and conquering shame had purged—as it seemed, for ever—his earthly transgression, this hideous story should have sprung into cruel resurrection."

He urged the jury most solemnly to think and think again before they made negligence on the part of the *Times* Book Club a means of giving the plaintiff damages which would supply him with a testimonial to his character.

Lord Darling summed up adversely to the plaintiff, and the jury, on the fourth day of the hearing, found that Mr. Ransome's

statements were true and that the *Times* Book Club had not been negligent.

THE ROSS LIBEL CASE

June 27, 1914

The last sensational case in which F. E. Smith appeared, before the War ended his private practice at the Bar, was that of *R. v. Crosland*, in which he led for the prosecution with Mr., now Sir Ernest, Wild, K.C., and Mr. Eustace Fulton. The case attracted wide attention because it was concerned with that celebrated man T. W. H. Crosland, who now sprawls a half-forgotten figure across his faded background, Crosland the Bohemian, the poet, the man who hated Oscar Wilde. He was a heavy drinker, a wit and a personality, and a poet of genuine merit. As an old and broken man he looked back on the ruins of his life, and wrote his own epitaph :

“If I should ever be in England’s thoughts after I die,
Say ‘there were many things he might have bought and did not
buy.
Unhonoured by his fellows, he grew old and trod the path to Hell,
But there were many things he might have sold and did not sell.’ ”

Secondly, the case was of great interest because the actions of Crosland’s absent friend Lord Alfred Douglas, and his quarrel with Oscar Wilde’s literary executor, Robert Ross, were discussed at length in court in the course of the eight days’ hearing.

The trial opened at the Old Bailey before Mr. Justice Avory on June 27, 1914, the day before the murder of the Archduke at Serajevo altered the course of world history. Mr. Crosland was charged with conspiring with Lord Alfred Douglas and others to prevent the course of justice and to bring a false charge against Mr. Robert Ross. The accusation made against Ross was of the gravest kind, and concerned his alleged immorality with a boy of 18 named Garratt who had been twice sent to gaol.

Yet as the case proceeded it became evident that Mr. Ross was at a disadvantage in protesting his innocence because the Judge insisted that this was not the issue before the court. The prosecution had to prove not that Ross was blameless, not that

the defendant had brought a false charge, but that he had brought the charge knowing it to be false—and this, in the face of a distinctly unfriendly Bench, proved too much even for F. E. Smith.

Robert Ross had known Oscar Wilde from 1888, and during his imprisonment and up to his death had administered his affairs, eventually becoming his literary executor by order of the court. Lord Alfred Douglas first met Wilde in 1891, and as is well known, it was their intimacy which induced Lord Queensberry to provoke the libel action of 1895 which broke Oscar Wilde. When after Wilde's release he went to rejoin Lord Alfred at Naples, Robert Ross tried to prevent the meeting. Lord Alfred was furious; his dislike of Ross began; from 1909 onwards it developed into a malignant hatred. Crosland had assisted Lord Alfred Douglas in the conduct of the *Academy* newspaper; he professed a strong disapproval on moral grounds of Wilde's writings and influence and spurred on Lord Alfred in his feud with Robert Ross.

In 1913 the quarrel became intensified as the outcome of the Ransome Libel Case. Lord Alfred Douglas abused Robert Ross for allowing the unpublished part of *De Profundis* to be used, although he had no alternative. When Lord Alfred Douglas lost his case, he immediately sent Ross an abusive letter, threatening to horsewhip him.

"I am well aware that I have to thank you for handing to Ransome for production at the trial the MS. of the letter Oscar Wilde wrote to me, a copy of which you profess to have sent to me. No doubt to your blackmailer's mind this is a fine coup. You and your filthy associates who are the scum of the earth imagine I shall be very much perturbed. As a matter of fact, I was always aware that you had in your possession the original of the letter with all its plain lies and obvious absurdities concocted by the filthy swine Wilde when in prison for the purpose of giving you a hold over me. I was equally aware that you were keeping this for the purposes of blackmail. I knew you were at the back of this filthy scoundrel Ransome. You have thrown off the mask now, and stand revealed as the foulest, dirtiest and meanest skunk that ever drew the breath of life. I shall smash you all finally because I am a decent and straight man. I will show you up before the world for what you are. Quite apart from that it is my intention to give you a thrashing with a horse-whip. Also there are other things in

store for you, but I won't go into them now. There is time for everything. 'The mills of God grind slowly, but they grind exceeding small.'"—Alfred Bruce Douglas to Ross, blackmailer.

He proposed to write a book, *Oscar Wilde and myself*, but was stopped by an injunction which Ross obtained in the interest of Wilde's family. Finally, so the prosecution declared, he and his friend Crosland set themselves to poison Robert Ross's character by making the boy Garratt accuse him of unnatural offences, and then laying the matter before the authorities at Scotland Yard early in 1914.

The police, regarding Garratt as a worthless liar, took no action. A few months later summonses were taken out against Mr. Crosland and Lord Alfred Douglas. Crosland stood his ground: Douglas remained in hiding in Paris.

Garratt's own story in the box was circumstantial. He was an auburn-haired effeminate-looking boy who was at the time serving a sentence for importuning. Before that, in September, 1913, he had been sent to prison for damaging letters in a pillar-box in the supposed interest of the Woman Suffrage Movement, of which he declared himself a supporter, much to the amusement of the anti-suffragists of those days. He said that he had never seen Mr. Ross until the present time, but while in Pentonville, in about October, 1913, he had been twice visited by a solicitor's clerk, who showed him a photograph and suggested that he knew Mr. Ross and would make damaging charges against him.

When he left prison in December, 1913, Garratt called on the solicitor and was introduced to Lord Alfred Douglas and Crosland. He lunched with them and was told, according to his own account, that they wanted a statement from him about Robert Ross, who would either pay a large sum of money or leave the country. Similar evidence was also given by Mr. Christopher Millard, a former secretary to Robert Ross, who had dismissed him on hearing that he had been associating with Garratt. Millard said that Lord Alfred had tried to persuade him to make a statement about Ross, although he knew that Ross had never met Garratt.

Robert Ross in the witness-box recalled his friendship with Wilde and declared that he had begged him to give up his gutter pervers. In reply to F. E. Smith he said that he regarded

The Picture of Dorian Gray—which in those days was a kind of shibboleth for the Philistine—as a “perfectly moral” book. Asked whether there was such a thing as an immoral book he retorted: “Yes, I know heaps of them: Lord Alfred Douglas’s poems for instance.” It was a definite hit and it infuriated the defendant, but it did the prosecution no good, because it at once antagonised the Judge. He had already been annoyed by Ross’s debonair carriage in the box. Ross had jauntily observed of his own reputation that it was as secure as that of Cæsar’s wife. “Leave Cæsar’s wife alone,” growled Mr. Justice Avory.

In opening the case for the defence Mr. Cecil Hayes cleverly represented his client as a man with a deep moral purpose, who disliked the “whitewashing” of Wilde and wanted to demonstrate to the world that his friendship with Wilde had been purely literary in character.

Crosland was then called to expound his views of Wilde and his disapproval of the study by Mr. Arthur Ransome which was “against public morality”. He declared in the most positive terms that Garratt had come voluntarily to him and Lord Alfred and made the statement about Ross without any prompting. He was, in fact, conducting a moral crusade.

F. E. Smith then took Crosland in hand and subjected him for two days to a most gruelling cross-examination. Crosland was an agile-minded and brilliant man; he slapped back merrily at Smith. It was a fascinating duel. Counsel drew Crosland’s attention to an article in the *Academy* of 1908 headed “The genius of Oscar Wilde,” and initialled A. D. (Alfred Douglas). He quoted a passage which said that “anyone who can maintain that *The Picture of Dorian Gray* is not one of the greatest moral books ever written is an ass.” Here Crosland could only mutter: “I was one of the asses,” to which Smith rejoined: “and you were the assistant-editor.” Quoting further appropriate comments from the article, Smith said: “I suggest that the literary vogue of Wilde did not cause you anxiety until the Ransome Case,” but Crosland denied this.

Having secured Crosland’s expression of belief that Lord Alfred was a “suitable” colleague in the anti-Wilde campaign, F. E. Smith then quoted some of Lord Alfred’s poems. He selected the poem called “Two Loves” in which the author described two youths whom he met in a garden of his dreams. He had asked one of them who he was and he said:

"My name is Love." The other youth cried: "Nay, he lieth—

for his name is Shame,
But I am Love, and I was wont to be
alone in this fair garden till he came
unasked by night. I am true Love. I fill
the hearts of boy and girl with mutual flame."
Then sighing said the other, "Have thy will,
I am the Love that dare not speak its name."

"Have you any doubt", he asked, "that the reference contained in that last verse is to unnatural affection?" The defendant with great reluctance answered "No." Crosland was then made to admit that though married for twenty years he was not living with his wife, but kept a mistress, and that, after applying to the Royal Literary Fund for relief on the score of poverty, he had gone with the lady to Monte Carlo, though he declared later that he had borrowed from a money-lender in order to make the trip.

F. E. Smith said to Crosland: "Your Counsel has referred to your wife and family: are you living with your wife?"

"I lived with my wife for twenty years," said Crosland, "and would be living with her now if it were not for legal matters."

"Who is Mrs. Parnell?" asked Smith.—"She is the tenant of the flat in which I live. I am sorry you put such a question. If you knew the circumstances you would not. In a case like this," continued Crosland in great excitement, "I don't think a man should be ashamed of saying he has a mistress. He might even be proud of his relations with the other sex. It is disgraceful to put such questions: if you can't get a conviction you want to ruin me outright. My wife might take divorce proceedings against me. What do you care? It's just for wanton mischief."

"Does it occur to you when complaining of the suggestions made against you," said F. E. Smith quietly, "that you have made many charges against Mr. Ross as ruinous to him?"—"These charges are made in the public interest," replied Crosland, "this man has brought me here to ruin me; he does not care twopence about the public."

"Did your Counsel recommend you to the jury as a married man?"—"He did. I may say that for six or seven months the lady you mention has been my mistress."

"You took her to the South of France?"—"Yes."

"On money received from the Royal Literary Fund?"—"No."

"You had £75 from the Fund?"—"I was ill all last year, and very hard up, and I applied for a grant from the Fund."

"Did you go to Monte Carlo having got that, and take this woman with you?"—"You needn't talk about 'this woman' as though she were something terrible."

"Did you take this lady with you then?"—"I did not go with any of the money you spoke of."

Next he was reminded of his own book *Lovely Woman*, published in 1903. When he brought a libel action against the *St. James's Gazette* for criticising that book, had not Mr. Justice Grantham declared that "it contained a libel of the foulest kind on the women of England"?

"Did you bring an action against Hall Caine?" asked Smith at one point.—"Yes, and I'm going to bring another," replied Crosland amid laughter. "There is £1,000 due to me."

"Now I suggest——" began Smith, but Crosland broke in excitedly: "You are suggesting that I am a rogue." He became very voluble and indignant, and spoke with such speed that Counsel could only with difficulty put his questions. Crosland became so offensive at one point that Smith appealed for protection to his Lordship, but Mr. Justice Avory observed that the nature of his cross-examination had invited rudeness.

Asked a question about his financial position Crosland said: "You may take it from me that I have been hard up all my life, since I was born, and will never be rich." (Laughter.)

In reply to another question Crosland said: "You have tried to make a quarrel between myself and my wife. Now you want to make a quarrel between Lord Alfred and myself. Go ahead, I wish you joy."

In reply to the suggestion of Smith that he would perhaps rather not answer a question, Crosland said angrily: "It isn't a question of 'rather not', I won't."

In reply to another question he said: "Do be careful, Mr. Smith. You are giving evidence." (Laughter.)

Mr. Smith: "I am suggesting that you are telling a deliberate untruth." At this Crosland said he would not allow Counsel to call him a liar.

Later Crosland became excited again, and said, referring to Ross: "I don't care if a man makes a hog of himself, but I do object to him making the world his sty."

Crosland admitted that he had brought several actions, but objected to being described as litigious, for "a man was not hung for litigation." He made one very witty remark which did a great deal to please the jury and win the case. He had remarked at one point: "I am anxious that the jury should not be confused." "The jury can take care of themselves," said Smith sharply. "I daresay they can," said Crosland, "but I want them to take care of me." There was loud laughter in which the Judge and jury joined. Crosland went on: "I am here to fight with one of the finest intellects in England, and I am going to fight. Two thousand quids' worth of counsel against a poor man!" It was a deft appeal *ad misericordiam* which evidently affected the jury. F. E. Smith harassed Crosland mercilessly, until he cried: "You go on browbeating me: if you go on for another five hours you will probably get me to say that I murdered Queen Anne." (Laughter.) He recalled Smith's remark in a speech, that a man's works should be remembered and his life forgotten, and said that it was erroneous. "As a man grows older, he will become riper. As you grow older, Mr. Smith, you will become riper." (Laughter.)

In his address to the jury F. E. Smith admitted, perhaps too frankly, that the court was against him. He pointed out that if Crosland could be held to have believed Garratt's story, the prosecution failed, though it was, he felt, incredible that Crosland could ever have reposed any faith in the tale. He commented on the fact that Crosland had admitted that his colleague in the work of destroying the Wilde cult was Lord Alfred Douglas, some of whose poems the defendant had admitted had an unnatural tendency. The defendant and Lord Alfred Douglas had conducted the campaign with the object of goading Mr. Ross into taking proceedings against them in some form or other so that they might be afforded the exquisite happiness of watching him in the witness-box trying to justify the complaint he was bringing against them. Mr. Ross had lived in London for the last twenty years, and yet Mr. Hayes had been reduced absolutely to the two letters which Mr. Ross had written over twenty years in first attempting to fasten these horrible charges against Mr. Ross. For Mr. Ross had been hounded about

London by these men, not in any attempt to vindicate the cause of morality, but because they tried to harness the solemn and majestic process of judicial proceedings for the purpose of the gratification of their own private indignation against Mr. Ross. Garratt was the instrument selected by Lord Alfred Douglas and Crosland as a satisfactory witness, though wholly uncorroborated, for the ruin of an innocent man. Although Garratt had been seen in prison by an emissary of Lord Alfred's, no one had been called for the defence to say that on that occasion the boy had identified the portrait of Mr. Ross, or implicated Mr. Ross in any way. Smith asked the jury to believe the evidence of Garratt rather than that of Crosland, not because he placed absolute reliance on the boy as a witness, but because the overwhelming balance of probabilities tended to show that the story told by Crosland was untrue, while that by the boy was true. He asked the jury to say that it was incredible at any stage that Crosland believed that the story of Garratt was a true one. Mr. Ross was now a middle-aged man, who, twenty years ago, formed a friendship not discreditable to his literary judgments nor discreditable to the ardent impulses of youth, which sometimes very wrongly led men to make ideals of those whose admirable qualities were not always complete. In such circumstances Mr. Ross had met Wilde, and through the years since Wilde's death he had paid the debt of that friendship. With the single exception of the monstrous Garratt charge they had failed to bring forward one suggestion against him in the last twenty years."

Mr. Justice Avory in summing up administered a reproof to the leader: "The jury", he said, "were not there for the purpose of admiring the advocacy of Mr. Ross's learned counsel, and certainly they were not there to convict anybody merely because Mr. Ross had the good fortune to have secured the services of one of the most learned and most eloquent of the counsel at the English Bar." The pill was heavily sugared, but it was, none the less, a pill. The Judge pointedly reminded the jury that when a man gives evidence on his own behalf he had not to establish his innocence; it still remained for the prosecution to prove his guilt. Moreover the acquittal of the defendant would not mean the condemnation of the man against whom he was said to have conspired. The Judge plainly hinted that Crosland, knowing of Ross's old friend-

ship with Wilde, was entitled to form his own opinion. His expression showed a strong hostility to Wilde and all his works. The summing up led the jury to an inevitable verdict of "not guilty," and a lively but unsatisfactory case was ended.

In December, 1913, the Grand Duke Boris of Russia brought an action for libel against the Frank A. Munsey Company, who had published in *Munsey's Magazine* for April, 1913, an article reflecting on his conduct in the Russo-Japanese War of 1904-5. On December 18, 1913, F. E. Smith, for the Grand Duke, explained that a settlement had been reached, but that his client desired to appear and deny on oath the charges of misconduct made against him. He wished once for all to put a stop to such libels and to vindicate his honour. The Grand Duke, in the witness-box, stated that he was a cousin of the Tsar, and recalled his military experiences in Manchuria, where no complaint had ever been made of his actions. Defendant's counsel expressed their great regret that the article had been published and the case ended. The Grand Duke was delighted with F. E. Smith's conduct of the case; he gave him a magnificent pair of jewelled cuff-links with his initial B. and the Imperial coronet. Two days after he had been created Lord Birkenhead, he was sitting next to Her Majesty the Queen at dinner. He happened to be wearing the Grand Duke's cuff-links. He saw the Queen staring at his wrists, at the enormous coronet, the aggressive B. in priceless diamonds, and realised with horror the suspicion that was passing in her mind and at once explained the truth.

After the case the Grand Duke instructed his solicitors to convey his thanks to F. E. Smith.

PERSONALITY

THE biographer ill performs his duty by the bare chronicle of the performances of his subject. His task lies far deeper than the naked recital of incident. He must take the machinery to pieces and expose the main-spring. This rule applies particularly to F. E. Smith, for all his achievements were dominated by his personality. Before we can envisage the man whose political and legal record we have traced, he must be infused with life, must be seen at home among his family, in his hours of leisure, in grief and in happiness.

F. E. Smith was as dark as any Southerner; when Sir Ian Hamilton first met him he described him as the best-looking man he had ever seen. He had an athletic and muscular body, and stood six feet one inch. With an easy grace that delighted women, an urbane geniality that dazzled youth, he cut a handsome figure in his sleek, almost splendid, clothes: when he appeared in his grey morning coat with the carnation and cigar, or in his pleated evening shirts with the glittering studs and buttons, his swarthy good looks had all the richness and warmth of a Moroni portrait. His stamina was extraordinary; he appeared never to be exhausted by burning the candle at both ends. After an all-night sitting in the House of Commons he would get shaved and go straight to the Law Courts, where he would plead from ten o'clock until four. He never required more than five hours' sleep, and could do with four.

It was impossible to imagine him growing old; his youth and buoyancy appeared to be indestructible. Once in the House of Lords a Socialist Peer was making a particularly fatuous speech; F. E., forgetting that microphones had been installed in front of their Lordships, said to his neighbour: "Who is going to answer this aged incompetent?" The question reverberated over the House. Such incidents meant that everyone

talked about him. As an old lady once asked: "Who is this Effie Smith? I don't think she can be a modest girl, to be talked about so much!"

Far the most powerful interest in his life was his family, and he held that the family bond should extend to the most distant and most disreputable relations. He was at the mercy of sentimental approach and the vaguest claims of family obligation. Begging letters which were able to establish the faintest claim on his attention were never written in vain. His secretaries wrote many letters containing £5 or £10 together with warnings that this was absolutely the last application that would be answered, but when the next appeal came, the letter and the enclosure were always the same.

There was one disgraceful young connection of the family who was tireless in his sponging. F. E. had supported him for years, and paid bill after bill. The young man retorted by burgling F. E.'s house and stealing two enormous gold cups which, as he explained to the pawnbroker to whom he presented them, he had won at school. F. E. continued to send him cheque after cheque. In the end he formed a mysterious association with Horatio Bottomley, who rang up F. E. to say he had engaged the young man, and to enquire after his *bona fides*. "Well," replied F. E. over the telephone, "if anyone can keep him straight, you can." Bottomley accepted this ambiguous tribute in good faith, and replied: "I will."

There was only one relation whom he refused to help, a second cousin who had tried every form of criminal activity, including the White Slave Traffic, and who emerged from each fresh spell of imprisonment having matured some new roguery. Nurse Daniels had just been murdered in the forest at Le Touquet; he crossed to France, and struck up a friendship with a destitute reporter on a local paper. After long haggling he agreed to pay this man £200. In return, the reporter was to put a paragraph in his paper to the effect that the second cousin had been arrested for the murder of Nurse Daniels. It would have meant imprisonment for the journalist, but he was desperate, and needed the £200.

When the paragraph had been inserted, the young man sued the paper for libel. He was discovered in time, and so failed to get the enormous damages he had hoped for, getting instead the cold welcome of a French prison; but F. E. was delighted

with the simple ingenuity of the idea, and sent a cable to his wife :

"How the family does keep in the limelight. F."

In his own family he was completely happy, and his extraordinary domesticity was unknown to the outside world. There were one son and two daughters. He was foolishly indulgent as a father, and could not deny his children anything they asked, however expensive. He was passionately eager for their success, and transported with delight when they succeeded. Their backslidings filled him with gloom and doubt. His son returned home from Eton one Christmas holidays preceded by a particularly lamentable report. He opened the library door with words of affectionate Christmas greeting, which were frozen on his lips by the spectacle of his father kicking his reports round the room. F. E. preserved a terrifying silence for about four weeks, and Christmas was clouded for the entire house party by this unhappy incident. F. E. was so eager for his children to be successful in life that he suffered agonies if he thought that they were turning out idle or disinterested in the future. His children were always better than anyone else's, and any little success they gained was magnified into a great achievement. He preferred the company of his family to any other society, and when he went on holiday the whole family was taken on expensive visits to foreign countries.

F. E. Smith used to take the two older children for long rides, cantering ahead on one of his heavy-weight hunters, while they followed him on their small ponies, often dressed as wild Red Indians. He was apt to forget all about them and would let his horse out up a certain hill near Charlton, known to the children as "Kick-off Hill". On reaching the gate at the top he would look round to see two small prostrate figures and the riderless ponies careering about the field.

He would take each child into confederacy with him. Together they would embark on secret adventures which would never otherwise have been allowed. His youngest daughter Pamela was the most frequent participator. When F. E. was at Charlton with his family he announced that he was taking Pamela with him to Cowes for a few days' yachting. They started off, the child unnaturally elated. Nothing was heard of them for some days, when a telegram arrived signed "Pamela",

saying that they had joined a yachting party on the Dalmatian Coast, and that she was finding Yugoslavia "a most interesting country". Enquiry from the nurse revealed that she had been told to pack enough clothes for a fortnight including "*smart evening wear*".

When his two eldest children were very young he sent them to see Carpentier fight, in the custody of Steve Donoghue, who looked after them as carefully as a trained nurse. The hall was crowded and all three sat on one chair.

This letter, written undated to his wife during their early married life, will make clear a side of his character to the outside world :

THE COTTAGE,
CHARLTON,
BANBURY.

DEAREST M.,—

I am so sorry for you in all your troubles. I don't think it is much good my staying away as little Eleanor was in my bed yesterday and I kissed her. I noticed her face was flushed and hot, but I thought she had been standing by the nursery fire. Mother says I have had measles, so I must hope for the best, but am anxious. Poor little mite, I do hope she does not have them badly. I do not think you should dream of going near her: you have not had measles, and will be in a very low and receptive condition. On Tuesday I am going to a mess dinner to Balfour given by Lord Farquhar, but will come home, unless you and the doctor disagree, to dress. I do wish I had insisted in my view that Baby and Eleanor should be separated *at once*. I was clearly right. I hope to get a wire to-morrow with good news, saying that you are nearly well.

We had a poorish day, but I enjoyed it. Constant Spring nearly kicked me off. Three corksers, but not quite. He and Guarantee jumped superbly. I am very lucky in my horses. I was going with Harkaway and Punch to-morrow, but it is snowing hard, and looks to me quite impossible—a splendid meet too, isn't it sickening? At the moment (I write in bed) it is a blizzard and I cannot see the line of fields opposite. What a climate!

The snow is like fog. I think I shall stay in bed all day and rest, but I am bitterly disappointed about to-morrow. Some of your rose trees are in.

Goodbye, dearest, I am thinking of poor little E. all the time. Will you tell her I will buy her a lovely present to make up, a little carriage and harness for Bobby, and I must buy you a present too.

Your very loving

F.

When his brother Harold, to whom he was devoted, died of cancer at the age of forty-five, he fell into uncontrollable grief. It was the first time that real sorrow had come to him, and it left him prostrate. Hitherto his life had been happy and successful; now he suddenly appeared to age: for months the mention of his brother's name produced tears and melancholy; he would constantly say about a book or a scene: "How Harold would have liked that!" A garrulous chairman in the Midlands ended a long introductory speech by reminding the audience that the last time Lord Birkenhead had addressed them had been in support of his late brother Harold Smith. F. E. had been listening with an expressionless face which hid his boredom; now his features contracted painfully, and when he rose to speak tears ran down his cheeks as he acknowledged the chairman's reference to his dead brother, and he remained moody and unhappy the whole evening.

Grief affected him far more powerfully than anger, and some of the noblest productions of his mind were achieved under the stimulus of sorrow. Indeed, in the funeral praises of others he seemed to find some mysterious and melancholy anodyne for his own sadness. When Kitchener, whom he respected and liked, died, he wrote:—

"We cannot do better than take leave of the great man of whom we write at this moment of glittering triumph. Not ours to follow him months later into the northern mists whence, with the loyal and chivalrous Fitzgerald, he voyaged still for England on the last journey of all. Who knows what pictures raced through that driven mind at the dreadful moment of realised doom: many, I suspect, of the fierce blue skies and scorching deserts of the East: some perhaps of Broome and the roses where never should be pleasure for their master, but mostly, be sure, of that England which he so steadfastly and ardently loved . . . and then the black icy breakers of the Western Orkneys, and a great and valiant heart extinguished for ever. . . ."

Of Edward Horner, a far younger man, one of that brilliant

and ill-starred group, the Grenfells, the Asquiths about whom so much has been written, he said :—

“It was, in my eyes, one of his principal charms that he united with a form so masculine and a passion for and proficiency in the most dangerous masculine pursuits, a caressing and sympathetic charm that was altogether feminine. . . . With him perished the last hope of direct male succession in an ancient and honourable English House ; and there passed too a gay, sunny and adorable nature, the love of which made life sweeter, and will keep it permanently sweeter for many.”

His greatest natural gifts were oratory and conversation. His dominion over words sprang from a natural fund and from wide and applied reading. It was an astonishing gift. Except in the case of Departmental surveys such as the long speech on India which he read in the House of Lords, he never meditated or prepared. When he did so, his speech suffered because his natural power was cramped by the restrictions of rehearsal. He had to the fullest extent the gift of effortless impromptu : the voice was of remarkable flexibility and power, and perfectly modulated for speech. When he raised it, it rang to the back of the largest halls ; he could sink it to a whisper and yet be heard. His invective and repartee were devastating, as many a pinked opponent found to his cost in court or on the platform.

He was a most dangerous man to interrupt. On the platform or in the House he enjoyed being heckled : it annoyed and stimulated him, and he spoke better under the spur of hecklers. Fatigue alone could dull his speeches, and it vanished when he was annoyed by interjections. At a meeting in the Walton division of Liverpool he was outlining the record of the Unionist Government : “and now”, he began, “I shall tell you exactly what the Government has done for all of you”. A woman’s voice from the gallery shrilled “Nothing”. “My dear lady,” replied F. E. at once, “the light in this hall is so dim as to prevent a clear sight of your undoubted charms, so that I am unable to say with certainty whether you are a virgin, a widow or a matron, but in any case I’ll guarantee to prove that you are wrong. If you are a virgin flapper, we’ve given you the vote ; if you are a wife, we’ve increased employment and reduced the cost of living ; if you are a widow, we’ve given you a pension,—and if you are none of these, and you are foolish enough to be a tea drinker, we’ve taken off the tax on sugar.”

During a Tariff Reform speech in the 1906 election he was much interrupted. One man continually shouted the word "Rats" between every sentence. At last F. E. said politely: "The gentleman at the back of the hall with the husky voice is under a misapprehension. I am not at the moment discussing the contents of the gentleman's larder under a Free Trade system of finance, but endeavouring to indicate the improvement that will result when we have a measure of Tariff Reform."

At an election at Preston, F. E. suggested to a very offensive heckler that he might remove his cap when questioning the candidate. "I'll take off my boots if you like," shouted the man. "Ah, I knew you'd come here to be unpleasant," was the smooth answer.

After the General Strike of 1926 he spoke at meetings all over England. He was addressing a disorderly crowd in London. Voices from the front shouted, "Wait till we put up the barricades!" In a second he strode to the front of the platform and shouted: "Barricades! you dare talk to me about barricades! —we've beaten you with brains, and if it comes to fighting two can play at that game! Put up your barricades, and we'll slit every one of your soft white throats!" Then followed long-drawn yells of anger. "Howl on, you wolves of Moscow!" said F. E. encouragingly.

At a Liverpool meeting a man made constant and idiotic interjections, rising again and again and shouting "What about food taxes; whose going to tax my food?" "Reassure yourself," said F. E., "I have yet to hear that thistles are to be taxed under any system of Tariff Reform."

He had extraordinary versatility of speech, and was never defeated by any emergency. He delivered an eloquent funeral speech in a provincial town over a local magnate who had just died. He spoke for a quarter of an hour in such a way as to bring tears into every eye in the room. The subject of his speech had been sprung on him without warning, and when he had entered the room he had no idea of the name of the man he had mourned. His secretary asked him how he had managed to make such a moving speech. He answered: "I said to the chairman with secret fury: 'All that I know about the man is that he was born an imbecile and died an imbecile. You really must help me to bridge the interval.'"

In 1927 he travelled to Portugal to receive an honorary degree in the University of Coimbra. He was entertained by the President of Portugal, Señor Carmona, and invited to a great banquet in the Presidential Palace. Some time before when on a visit to Madeira he had met an amiable Portuguese called Da Silva, who was interesting himself in a scheme to build a mole at Funchal and desired Government support. He had implored F. E. to urge his claims at Lisbon. This seemed to be a suitable moment : he began in his laborious French to outline the scheme to the President. He dwelt on the advantages, the great number of tourists who would visit Madeira and spend money there, who were deterred by the present difficulty of disembarkation, of the protection which it would afford against the cyclones which sweep down in fury upon the island. The President listened attentively : suddenly after about a quarter of an hour he caught the word "Madeira", and said eagerly, "Ah ! *Gâteaux de Madeira, délicieux !*"

F. E. then spoke, and the occasion tested his versatility to the full. He referred delicately to the "ancient alliance" between the two countries, "an alliance which had been so gloriously cemented on the battlefields of France".

F. E. Smith's principal amusement before the War was hunting. He hunted whenever he could get away from his work, having started his career as a horse-owner during the period when he was a don at Oxford. His first horse was a big raw-boned grey which he bought with considerable sagacity out of a cab in Birkenhead. This horse was a fine performer and F. E. rode him in the Bar Point-to-Point, but without success. He added a useful cob to his stud at Oxford, although there appeared to be some doubt as to whether the seller had any claim to ownership.

It was not until he had settled in Birkenhead that he blossomed out as an owner on a large scale, but then his stud assumed gigantic proportions. It was perhaps unfortunate that attached to the house was a long range of loose boxes, twenty to twenty-five in number, and he was not satisfied until he saw a horse's head looking out of every box. Two or three pairs of carriage horses and cobs were considered necessary to do station work, a journey of three miles. This journey was considered an arduous task, and was never made twice by the same horse in one day. The stud was tended by a swarm of grooms, although



F. E. SMITH ON YEOMAN

the story that between them they formed a football team is probably an exaggeration.

Once a horse had entered his stables it could do no wrong. If any of them was suffering from any infirmity the greatest anxiety and gloom came over him, and many a guest stood in sepulchral silence in one of his loose boxes, feeling that he should remove his hat, as he gazed with awe at a sprained tendon. Such accidents were frequent, as his horses were always overfed and underworked. He had in Cheshire some first-class performers which would have distinguished themselves over any country, and they had to tackle enormous obstacles when the owner was riding them.

F. E. was completely without fear on a horse, although he was by no means a finished horseman, and many envied the strength of his seat. Colonel Furneaux, his brother-in-law, an acknowledged artist on a horse, records that he never saw him bucked off or jumped off, although his horses were always much too fresh.

He was not an ardent fox-hunter in the true sense of the word: to him a day's hunting was boring and wasted unless he was able to gallop over many and varied obstacles. The hounds meant nothing to him, and on the occasions when they checked he was often seen jumping fences in the opposite direction.

In the Bicester country hunting is a serious occupation, and when F. E. transferred his exuberant circus of horses to that district, he and the officials were never able to see eye to eye. Followers of the Bicester hounds used to cultivate what they called the "Bicester Manner", which was a source of great pride to them. The manner was easy to acquire, and consisted in being as offensive as possible to anyone whom they did not know by sight. As was to be expected, F. E. came into immediate collision with the Bicester Manner. The trouble started when one of his horses, Constant Spring, kicked and killed one of the most promising of a young draft of hounds. Soon afterwards, on a bad scenting day, there was a long check. It was extremely cold. By a curious chance the check took place on the land of a farmer to whom F. E. paid ten pounds a year for the privilege of using four of his boundary fences to school horses over. There was nothing better to do, so he cantered up to the line of fences and jumped them one by one. The Master rode up to him, face twisted with fury, and unloosed a full blast of the Bicester Manner.

"What the b——y hell do you mean by crashing your b——y carthorse through those fences?"

F. E. replied with equal emphasis: "I'll tell you; I jumped those b——y fences because I happen to pay the farmer who owns them ten pounds a year for the privilege of doing so, and now I'm b——y well going to do it again!"

And he did.

It was, no doubt, this difference in outlook which led the Bicester Hunt authorities into a rather paltry conspiracy to prevent him being given his hunt buttons, but no doubt there was provocation on both sides.

F. E. Smith had some good horses in the Bicester country, but little time to devote to the chase. Finally, after one or two cold scenting days, as he was shivering by the covert side he decided to give up hunting. His decision was made in a characteristic manner. It was one of those woodland days with a bitter east wind. He had been sitting for several hours in futile expectancy when he was heard to say bitterly:

"In future this vermin may pursue his way unmolested by me."

Then he went home, and the Bicester hounds saw him no more. After this two or three horses were taken into a field and then F. E. would gallop and jump them in turn until they were exhausted. Thus he could crowd a gallop into an hour, unimpeded by hounds and checks.

His friends little knew how their reputations ebbed and flowed according to their comments on the horses that were led out for their inspection. F. E. would stand smoking a cigar in the stable-yard with a friend while the horses were brought out and the rugs taken off. "Isn't that a beautiful horse?" he would say in a challenging voice. Fulsome agreement was the wisest course to pursue: his face would then relax into a pleased smile. The slightest criticism made him furious. "What do you mean—long in the back? Come and look from here; I never heard such damned nonsense." His old friend the Duke of Marlborough, a beautiful horseman and a light-weight, would be made to gallop a horse of enormous proportions and bad shoulders round a forty-acre field.

"There, what do you think of that?" F. E. would say truculently, when the Duke returned aching in every joint. "Isn't he a beautiful horse?"

It is a tribute to the Duke's tact that the great friendship was never strained by the answer. A wise horse with a free choice of its master would have chosen F. E. His stables were a haven of overfed rest for horses buffeted in their early life. One of his favourite hunters, a blue roan, was bought out of a gipsy cart loaded with at least a ton, on a hilly Hampshire road. He is still alive at the time of writing, and must be at least thirty years old. He lived to look down from the walls of the Academy on the canvas of Munnings, and was generally the first horse to be paraded for inspection by visitors to Charlton.

So as the years passed by, the fields in the parish of Charlton became dotted with pensioners, circus ponies, goats, mares and foals which were fortunate enough to be owned by him, and had therefore been unable to do wrong. Moribund goats, which had not yielded a pint of milk in years, lived out the twilight of their lives in his paddocks, while Bobby, a thirty-year-old Shetland pony, whose career spanned three generations, and who was useless for any form of activity except eating, was taken every evening from the field to a warm stable and cossetted with bran mash.

Although F. E. found it difficult to get on friendly terms with the more pompous members of the Bicester Hunt, he made several unconventional friendships, and in this way came to meet Robert Sievier and "Bonnetty Bob". Robert Sievier was a notorious name twenty-five years ago. Editor of the *Winning Post*, author of the "celebrities in glass houses", he was a man to be feared and courted. F. E. Smith neither feared nor courted him, but they had met in connection with one of the many acts of litigation in which Sievier had been involved. "Bonnetty Bob" was a well-known horse-coper and a constant winner in show jumping competitions. He had two chestnut horses on which he won prize after prize in the ring. They were perfectly matched, but one had a silver blaze. "Bonnetty Bob" would appear on one of these horses, and make an impeccable round of the course. Then he would disappear into his loose box and emerge on the other horse. One day he was longer than usual in the loose box, and one of the stewards coming to find him discovered him painting a silver blaze on the same horse. After this his career in the show ring ended, but horses still claimed him, and he occasionally hunted with the Bicester hounds. He was a first-class horseman and was

riding a blood horse on the occasion we shall describe. Robert Sievier was also riding a blood horse when F. E. met them both in a thick fog, having lost the hounds.

The three men smoked a cigar together, and slowly the fog began to rise. "Bonnety Bob" suggested that as none of the three had the slightest idea where they were, and had been cheated out of their day's hunting, it would be amusing to organise a small steeplechase for a purse. He pointed to the horizon, where there was a church steeple rising from one of those thatched villages which nestle amid the fields of the Midlands. He proposed that the three should start riding across country taking their own courses, and that the first man to arrive at the church should sweep the stakes, which were agreed upon at £10 per man.

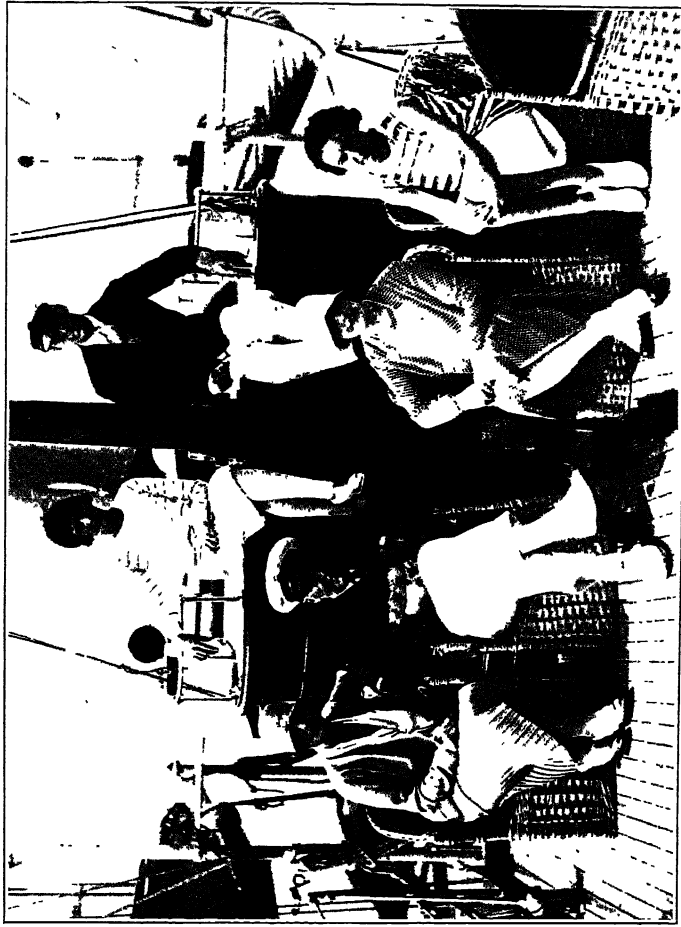
F. E. agreed, but on two conditions; first, that he should carry the stakes while the race was run, and secondly, that the first obstacle must be compulsory, a five-barred gate. "Bonnety Bob" questioned the first condition and asked why F. E. should carry the stakes.

"Because", replied F. E., "you know perfectly well that if I carry them you will see them again if I lose, and that if you carry them I shan't see them if I win."

"Well," said "Bonnety Bob", "there's something in that."

The other condition was a subtle move on F. E.'s part. He was riding a heavy hunter without any pace, which happened to be a superb timber jumper. He knew that it would be prepared to jump a gate in cold blood: looking at the thoroughbred horses of his rivals, sidling about, restive and cold, he thought it most unlikely that they would negotiate the gate willingly. When the signal was given F. E. edged his way to the front and rode at the gate: his horse rose majestically, landed the other side and pounded across a ploughed field. F. E. heard floods of appalling language behind him, and turning saw the others on the far side of the gate kicking and beating their horses. F. E. was two fields ahead by the time one of them got over: then it was "Bonnety Bob", and the top rail was broken. F. E. rode religiously to the steeple and thence home.

After he gave up hunting, F. E.'s favourite sport was yachting. To follow his career as a yachtsman we must outstrip the period we have been reviewing, for he did not invest in a yacht until his later life. Once he had acquired his own boat, she became



AT COWES, ON BOARD M.Y. "MAIRI"

Reading from left to right: Countess of Birkenhead, Earl of Birkenhead, Lady Pamela, Lord Furneaux (back), Lady Smith (front), Lady Eleanor.

his supreme affection. Her name was the *Mairi*. She was an eighty-ton yacht, which after acting as leader to the wooden-built military launches during the War, was acquired and converted by F. E. She had been presented by the Directors of the famous firm of Beardmore to the late Marquis of Graham on his marriage, and was a steel-built schooner-rigged ship, with raking bows and a cruiser's stern. On her he was able to indulge his passion for the sea. "The land", he would say, "is held in fee, the sea belongs to every man. All the beauty of strange lands and waters belong to the man who owns a yacht." He loved to think that he could take his own perfect little dining-room across the sea wherever he wished. He was indifferent to weather, and was as happy when the white horses were out as when the sea was blue and calm in the sunshine. He was also an aggressively good sailor, and, when his guests were green and prone, might be heard loudly demanding pork chops.

One week-end he and Ellis Ashmead-Bartlett were alone on the *Mairi* for a week-end of golf and bridge in the Isle of Wight. It was extremely rough. They sat after dinner on each side of a balancing table playing double dummy. Ashmead-Bartlett grew every moment paler and more silent. His calling became more and more distraught; opposite to him on the table was a great slim-necked bottle of Cognac. It swayed up and down in response to the movements of the table. Ashmead-Bartlett watched it with a glazed eye : F. E. exhaled clouds of cigar smoke. Suddenly the boat gave a greater lurch and Ashmead-Bartlett saw with incredulous horror that the neck of the bottle had come into contact with the ceiling : at this moment F. E. said truculently, "Four no trumps". The combination was too much for Ashmead-Bartlett and he rushed to the side.

F. E.'s affection for the *Mairi* was that of a child with a new toy. He was always planning little improvements of structure and decoration. The limited space on the walls of each cabin was crowded with pictures—of the old windjammers burrowing into heavy seas off Cape Horn, of stately schooners riding at anchor, and of naval battles of the past. There were five sleeping-cabins; two bathrooms and a dining-saloon on deck. This was constructed from a wooden deck-house built by the owner. It added a great deal of top-hamper to the boat, and made her roll badly, but he loved this little room, the size of a large bathroom, more than the library at Grosvenor Gardens or at Charlton.

He liked to think of the ship as a little floating home, where he could eat his dinner and drink his wine in any country or any waters, where he could enjoy the pleasures of ownership and the comforts of home amid strange surroundings, and go to sleep in his deck cabin with the door wide open, listening to the sea chuckling against the hull.

He sailed the *Mairi* across the Channel more than once to Calais, Deauville, Dinard and Ostend, and used to say that were the inducement large enough he would be prepared to take her across the Atlantic. He would certainly have done so if he had had no wife and family, but we are not sanguine about his chances of arrival. Her principal drawback was the uncertainty of her engines. Relics of pitiless war-time slogging, they were liable to sudden seizures. The boat would then float derelict until the engineer diagnosed and corrected the trouble. Sometimes this took him an hour, and sometimes four. If the sea was at all rough it was both frightening and disagreeable. F. E. would sit on deck with a cigar, perfectly happy to be floating derelict in mid-channel, so long as he was afloat on his own yacht.

He used to tell the apocryphal story of how he nearly lost his life on the *Mairi* for this reason. He had been suffering badly with his eyes, and had almost lost his sight, as the doctors thought, through excessive smoking; he had been sent away for a rest cure, and forbidden cigars. The question at issue was whether the state of the *Mairi's* engines justified taking her across the Gulf of Lyons in half a gale of wind. F. E. was in favour of sailing; his Captain, who had a wife and family living up the Hamble River, was strongly against it. F. E. took the decision, and they started; the boat began to roll heavily: the Captain stood on the bridge with a knife in his hand with which to cut down the launch on the davits, in case her weight pulled the yacht over on her side. When they were half-way across the Gulf, the engines stopped, and the wind began to drift the yacht towards a rocky shore.

The Captain, with the well-satisfied air of a man whose warning had been disregarded, said: "If that engineer can't put them engines right, this yacht will be lost." F. E. had been enjoying the gale from the deck; he was perhaps a little in the way, but he was the Master, and there was no bosun to shout: "To cabin hence! what care these roarers for the name of king?"

He saw what appeared to be the end approaching. What did eyesight matter now? He prepared to meet his Maker. The steward was ordered to bring up a bottle of champagne and a box of cigars. F. E. invited the Captain to join him in a last drink. They sipped their wine in silence. The rocks covered with spray drew nearer. Suddenly there came a roar and splutter from below, and the engines leaped into life again and the yacht drew away from the shore. From the day when he concocted this full-blooded story, F. E. had no further trouble with his eyes.

Deeply attached to foreign travel, he remained a poor linguist. He excused this deficiency by saying that one man could not know everything, but he was always prepared to say something, to charge the stiffest bullfinch. For example, when he had lost his yachting cap in a café in Brest, he was heard asking a puzzled waiter: "*Où est ma casquette maritime?*"

To a sound grammatical knowledge of French he allied a scholarly and correct writing style, but his accent was bad and caused great confusion. Once, when he had finished dinner in a night club in Ostend he wanted brandy. He asked the head waiter for the "*Fine de la Maison*"—"the very best, the most expensive you have," he added. The waiter thought he had asked for the "*Fille de la Maison*", and an embarrassing scene followed.

He was fond of telling the story of another amusing misunderstanding in which he was involved in Berlin. He was the guest of a rich German banker in his country house in Potsdam. His host had a springer spaniel bitch which was most devoted to him, and followed him about wherever he went. F. E. and his host returned home one day from golf in the car. The door was opened by a trim parlour-maid, and the spaniel darted through it and jumped affectionately upon her master.

"What a jolly little bitch that is," said F. E.

"Yes," replied his host seriously, "she is a very nice girl; she is the wife of my chauffeur."

F. E. was a constant golfer, and he kept this game up until his last years. His secretary, Mr. Roberts, was with him when he invited Sir John Simon to become Chairman of the Statutory Commission. This was an onerous task, involving great pecuniary sacrifice. Next day F. E. and Sir John played golf. Sir John gives to golf the same concentrated effort that he does to his political and legal life, and is consequently a rather

slow player. F. E., whose own game resembled a Florida cyclone, sighed wearily at the delay, but brightened at the thought which he whispered to his secretary that his golf at any rate showed that Sir John was the right man for the Indian post.

His own game was bewildering ; he avoided all preliminary waggling, but placed his club some way behind the ball and gave it a blind blow. So quick was he to hit the ball that his caddies often remonstrated that he should give them more time to remove their hands off the tee. He played with huge appetite ; when he returned to the club-house the fortunes of the morning were clearly written on his face. He made no spurious attempts at good humour when he lost, and equally little attempt to conceal his delight when he won. The smallest piece of good fortune on the part of his opponent was to him a monstrous fluke in contrast to his own good but unlucky play ; while his opponents were putting he fixed them with a black and baleful look, and thus won many matches.

F. E. Smith was always extravagant. He had been unable to economise at Oxford, and indifference grew upon him as his means increased. He once told Sir Edward Carson that he could always make money, but could not keep it. He married, confident in his earning powers, bought a string of hunters, and lived *en grand seigneur*, not worrying about the future and confident that things would end all right. He was a man of colossal generosity, who could not be niggardly of his money and despised those who were. If he entered a jeweller's shop to buy presents he was quite likely to spend £500. He had no idea of the value of money, and as the habit of magnificence grew upon him, his indifference grew with it. At the end of his life, when he had left politics for the City, he had his eighty-ton yacht, eight motor-cars, only three of which were ever used, three chauffeurs, eight horses with three grooms, horses which were hardly ever ridden, a large London house, and a house in Northamptonshire. He took a childish pleasure in his possessions, and loved to range his eight yellow cars one behind the other in a long opulent line. He refused to attend to his income-tax returns, and gradually incurred an enormous overdraft. When remonstrated with he would buy another car or a new motor launch.

A few words are necessary to explain F. E. Smith's attitude towards women, an attitude which attracted steady abuse. He

bitterly resented the intrusion of women into politics, and indeed their encroachment upon any of the fields of masculine competition. He was violently enraged when, on their own authority, Mr. Baldwin and Sir William Joynson-Hicks embarked on the disastrous experiment of the flapper vote. His attitude towards the emancipation of women was most reactionary. He personally disliked the woman with a serious intellectual appetite, the blue-stocking who dissipates her woman's legacy in an unsexed life. He would have been at one with Casanova, who rhapsodising on his possession of Henriette, wrote wisely :

"But a learned woman, a blue-stocking, is not the creature to minister to a man's happiness. Positive knowledge is not a woman's province. It is antipathetic to the gentleness of her nature, to the amenity, to the sweet timidity which is the greatest charm of the fair sex. Besides, women never carry their knowledge beyond certain limits, and the tittle-tattle of blue-stockings can dazzle no one but a fool. There has never been one great discovery due to a woman. The fair sex is deficient in that vigorous power which the body lends to the mind, but women are evidently superior to men in simple reasoning, in delicacy of feelings, and in that species of merit which appertains to the heart rather than to the mind."

F. E. had satisfied himself that the full beauty and durability of marriage rests on a tender interchange of sympathy and understanding, and that the sterner intellectual qualities disqualified women from such sympathy and turned them into pale imitations of men. He was also convinced that women who have sacrificed femininity in intellectual pursuits are usually unworthy substitutes for the men. Perhaps he was too prone to forget that there is a substantial minority of women without the domestic instinct, whose ambition is that of worldly distinction. His views on the subject are distilled into these few sentences, the conclusion of his speech against woman suffrage in the House of Commons in 1910 :

"The honourable gentleman has spoken of the many illustrious woman writers, and those of whom the whole sex and indeed, the whole community irrespective of sex, are proud. I do not wish to decry the claims of women to intellectual distinction ; I have never, in this House or elsewhere, founded myself upon some assumed intellectual inferiority in women. I do not believe it.

"But I venture to say that the total sum of human happiness, knowledge and achievement, would remain unaffected if—I take the

most distinguished names—Sappho had never sung, Joan of Arc had never fought, Siddons had never played, and if George Eliot had never written ; and at the same time if the true functions of womanhood had not been faithfully discharged throughout the ages, the very existence of the race and the tenderest and most sacred influences which animate mankind, would have disappeared.”

It was certainly an assistance to his argument that he personally disliked most political women. Once in his later life a peculiarly plain example of such a lady was staying in the same hotel with him and his wife, and made continuous and unnecessary requests to Lady Birkenhead that she should act as her chaperone. “What shall I do?” said Lady Birkenhead. “It’s such a bore.”

“Reassure her,” replied F. E., “and explain that her charms are not of that imperious nature which make men forget themselves.”

Ridiculous stories circulated about him in this connection. He was, in fact, excessively Puritanical both in conversation and moral behaviour, and greatly shocked by the slightest obscenity. He would never listen to indecencies. If someone told a *risqué* story his face hardened into judicial displeasure. If he ever tried his own hand it was with stories of the most innocuous type usually ten years old. He had nothing Rabelaisian in his nature.

F. E. was a most brilliant talker ; had some Boswell followed him and faithfully recorded his words, he would have gone down to history as one of the most wonderful conversationalists since Sydney Smith. There was, indeed, something Johnsonian in his character. In the mellow atmosphere of an Oxford or Gray’s Inn Common Room he loved to preside over a conversation. Surrounded by the oak panelling, and amid the blue tobacco clouds after dinner, he was at his best. There was no gathering of men, however distinguished, which he could not dominate if he chose, but he was as likely to remain silent and listen to the conversation of others. He only talked when his mood invited him ; then he was capable of scintillating and sustained monologue. He would take some incident in the life of a friend and weave round it fantastic exaggerations. Those stories followed one another in orderly procession, swelling into amazing extravagances, dying on brilliant crescendos, buildings of words rising brick by brick upon a flimsy half-truth. He would tell how General Seely, celebrated for his *Gasconades*, was walking down Ryde Pier when he saw a man struggling in the angry

sea. Clustered round the end of the pier was a large number of people, none of whom dared to go to the rescue. Seely quickly took his coat off and dived into the water and took hold of the drowning man. A violent struggle followed, and the General was forced to stun the man before he brought him to shore. Seely remarked, "That was the most troublesome man whose life I have ever saved," and was afterwards disappointed to find that the drowning man was a champion swimmer of the South of England, who was giving an exhibition of life-saving.

He would tell, too, of how General Seely, before he began his military Odyssey, was for a short time in legal practice; how he defended a man accused of murder; how the man was at once convicted and sentenced to death; and how Jack Seely leaned over his client while the terrible words of the death sentence were still ringing in his ears and said, "At any rate, before you meet your Maker it will be a satisfaction to you to know that everything forensic talent can contribute has been exerted on your behalf."

F. E.'s wit collided pleasantly with that of the late Ellis Ashmead-Bartlett. Ashmead-Bartlett was, perhaps, in the currency of world valuations, a failure. His real genius lay in the swift repartee, the lightly discarded epigram. He would deliberately entrench himself in untenable positions and delight in the slow process of being dislodged. There were many chinks in his mail, but his shield flashed from one to the other in agile defence. Like Oscar Wilde, he might well have pleaded that he had put his talent into his work, but his genius into his life, and he knew well that the pearls which fell so easily from him over dinner tables would soon powder into dust. When F. E. and Ashmead-Bartlett met the duel began, Ashmead digging his shallow trench, F. E. remorselessly shelling it. Ashmead-Bartlett's defence was so adroit that even those who were affronted by his harsh domineering voice found themselves lulled into a captivated silence. F. E. appreciated his friend's humour and repeated with amusement the story of a round of golf which his son and Ashmead-Bartlett had played together on a Midland course. Ashmead-Bartlett pointed to a row of giant elms which had been uprooted by a gale and were strewn for half a mile down the course, and said in his strident voice:

"I see your father's been playing here."

F. E. also liked to repeat Ashmead-Bartlett's remark before he

was sent to Palestine by the *Daily Telegraph*, that if his run of financial ill-luck continued his next address would probably be :

The Manger,
Bethlehem.

F. E. Smith's invective usually routed his discretion, and raised up many enemies. He was once in the smoking-room of the Carlton Club, when Lord X, the recognised club bore, was half-way through a thirty-minute hunting story. F. E. had been listening with an exasperated face ; suddenly he pushed the bell, and rising to his feet said to the waiter who answered it : " Listen to the end of Lord X's story, will you ? I've got to catch a train."

F. E. Smith's enemies always maintained that his life and opinions pivoted round a cynical materialism. It was not difficult for them to establish such a case, but they did so by an unscrupulous suppression of essentials. The charge pursued him through his political life, and culminated in the furore which followed his famous Rectorial Address at Glasgow University on " Idealism in International Politics ". This address was greeted by every pacifist in England as showing his shallow political morality, and his deplorable want of understanding of the possibilities of peaceful idealism in international conduct. Excerpts were isolated from their context and quoted with absurd injustice. The ringing phrase, " Glittering prizes," became the stamp of his cynical imperialism, but the complete speech presents an argument lucid, unanswered and unanswerable.

This speech, indeed, may be considered as a test case. F. E., although he admitted that it might be charged against those who held his views that they carried in their veins the virus which coloured the sombre and unmoral genius of Treitschke, was advocating no cynical application of the Hohenzollern principle. He was not condemning the principle of peaceful arbitration. He admitted that every normal man agreed that wars are odious and terrible, and should do everything in his power to contribute to their prevention. He did not deny that in its secondary and minor duties, such as in small decisions of territorial adjustment, the League of Nations might do and had done useful work in the interests of international peace. He was concerned to show that the larger claims made on its behalf were fantastic, and he did so by an empirical method of argument in which he showed



F. E. SMITH AND HIS SON

by reason and logical pleading that the history of the world afforded no foothold for expectations of lasting peace ; that the philosophy of the idealists, if and when translated into practical action, was liable to degenerate into pacifism, which he regarded as a dangerous and destructive creed ; that the wise policy was not to disarm on the strength of windy assurances of international goodwill, but to refrain, as has been our habit, from provocation, and to maintain in our hands the adequate means for our own protection, since at the moment there was as little prospect of permanent peace as during the Dark Ages.

Another point in his speech which led to false estimates of his character was the bald statement that a staunch and enlightened self-interest was and ought to be the mainspring of human conduct. It is well known that materialist philosophy can be contradicted by a capable dialectician, who can prove that in certain cases there comes into operation a free-will as opposed to the promptings of mere self-interest. But Lord Birkenhead was not attempting to establish a philosophic axiom; he was pointing out that in the great majority of cases, even cases of apparently unselfish devotion and kindness, self-interest is the motive force, and that in the world as at present constituted it was right that it should remain so. He drew these inferences from Bentham's *Principles of Morals and Legislation*. He did not complain of disagreement with these views, but of their misinterpretation. He was not a materialist except in so far as to feel little confidence in the harmony of nations ; yet he did not ridicule or oppose machinery for enforcing this harmony : he merely doubted its efficacy and pointed to its perils. "The only legitimate sphere, therefore," he said, "of the idealist within the sphere of private morality is to elevate if he can the standards to which conduct is, in the existing scheme of things, adjusted, without attempting to impair motives which are fundamental to human nature and vital to social economy." And again: "In current language an idealist is one who places before himself in private or public affairs a goal which other citizens, perhaps equally moral, do not believe to be so attainable."

His enemies also found in him an arrogance which they detested ; the barbed wit bred enemies like flies in the summer. Its very facility led him to create antagonisms where they were unnecessary for the justification of a point. Becoming the instrument of his own invective, he was too prone to forget the wound

inflicted in the pleasures of acrimonious debate. For a man so emotionally soft-hearted and sensitive, he was extraordinarily liable to wound the sensibilities of others. His tongue often betrayed him into cruelties which he would never wittingly have inflicted. He was sometimes very arrogant, but always very proud. He was unwilling to admit another's superiority, or allow any assault to escape his counter attack. For him who could suffer insult with patience he felt nothing but contempt. He recoiled from some of the softer injunctions of Christianity. To him meekness was a sin, and the meek man a contemptible invertebrate. "We have the highest authority", he said, "for believing that the meek shall inherit the earth; but I have never found any particular corroboration of this aphorism in the records of Somerset House."

His courage was not accompanied by brutality. He loathed cruelty: he was devoted to animals; his little Cairn terrier Jane was taken into places to which no dog has ever before penetrated. She visited the Embassy Club and *Ciro's*; she was rarely absent from the Cowes Regatta: at the funeral at the Charlton cemetery she was a disconsolate little mourner. Just as his nature inclined tenderly to animals, so was it ultimately soft and yielding to people. A stranger seeing him at home might have thought his manner with servants harsh and offensive. Yet they all adored him; his groom was in his service for twenty-eight years, his gardener twenty years, and his cook sixteen. No one criticised with less mercy, but no one forgave more magnificently. They realised this, and were not touched by the superficial harshness of manner. When they were ill he helped them, when they went away on holiday he gave them generous presents. He was often impatient and brusque with them; but it was one of the prerogatives of his personality that he could show discourtesy to those whom he knew well and saw constantly, and yet attract them to him more powerfully. One felt the immediate imprint of this personality: it inspired an unquestioning obedience; his orders were obeyed to the letter. It also inspired profound respect mingled with fear. When he came into a room, the atmosphere changed; often people stopped talking, and the company reconciled itself to his mood. He was most impressive when angry; his anger inspired real fear, but it was transient and soon melted. Just as it was frightening to provoke his anger, so was it delightful to experience

his pleasure. It was so naive and ill-concealed ; in his eyes one success could obliterate an infinity of failures ; their sting was instantly forgotten.

At the bottom of his complex character lay amazing contradictions, a feminine softness of heart coupled with the power to inflict cruel and lasting wounds ; a brilliant perspicuity and the capacity for absorbing and enjoying the crudest flattery ; an animal zest in the pleasures of life, and a Victorian propriety in moral behaviour ; a nature at one moment exuberant and brilliant, the next silent and unapproachable. All these opposites in his character jostled against one another and struggled for supremacy. It is not easy to describe a dominant personality. F. E. Smith possessed one to the fullest degree. He could do things which no other man in his position has done since the days when Bolingbroke ran naked round the Park. We have seen him when Lord Chancellor racing an undergraduate round Tom Quad ; when Secretary of State for India he challenged two American confidence tricksters to dive from the highest board in Madeira for a purse of £100, and won his bet. Yet he could preside with the utmost dignity over the most august tribunal in the world. His amazing stamina lasted unimpaired till death ; at the age of fifty he could drink a bottle of vintage port at Blenheim and immediately after lunch swim a mile in the Great Lake. At fifty-six he could play eighteen holes of golf in the morning, nine sets of tennis in the afternoon, and ride twelve miles before dinner without the slightest fatigue. He galloped *ventre à terre* through his brief life, and courted his sudden death.

THE HOME RULE BILL (1912)

WE have seen how the Asquith Ministry, at the general election of January, 1910, forfeited its absolute majority in the House. Now it lay at the mercy of Mr. Redmond and his eighty-six Nationalist followers. Mr. Redmond was an inexorable taskmaster : he piped, and Mr. Asquith, a little shame-faced, danced an unwilling minuet. Reluctantly he was forced to pass the Parliament Bill unchanged, after the election of December, 1910, had echoed the verdict of January. We have seen how the peers acquiesced with a shrug, against the advice of F. E. Smith and others, and how, on August 18, 1911, the Parliament Act received the Royal Assent.

The way was now clear for the passage of the Home Rule Bill. Mr. Redmond's task was to drive Mr. Asquith forward with his scorpions and scourge him into the refusal of every concession. To become law, the Bill must be passed in three consecutive sessions, 1912, 1913 and 1914, in the teeth of the Lords. Mr. Redmond waited confidently for the *dénouement*, like a wrestler who holds his opponent in a death-lock ; but he was soon to be met with a considerable disillusionment. The Irish Unionists, gauging closely Mr. Redmond's intentions in Ireland, foresaw that he would refuse to exclude Ulster from any Home Rule scheme with which he was associated, and they sprang into swift action.

On September 25, 1911, the Ulster Unionist Clubs and Orange Lodges held a convention at Belfast, and declared for a Provisional Government. A sharp change came over the Unionist attitude towards the gathering crisis when, on November 8 Mr. Balfour resigned the leadership of the party and was succeeded by Mr. Bonar Law. The new leader quickly revealed a warm sympathy with Ulster, and an approval of the virile strategy of Sir Edward Carson. He realised at once the futility of splintering lances against a mechanical majority in the House where

the Government must mould their policy according to Irish dictation, or pass ingloriously from office, against a majority whose Non-conformist members were soothed by such measures as the Welsh Church Bill.

The Unionists decided to fight, and in so doing to carry the war outside the parliamentary arena. Their objects were to win public support, and to intimidate and divide the Cabinet. The pages of Mr. Redmond's life by Mr. Stephen Gwynne show that this policy was well conceived.

When F. E. Smith joined Mr. Bonar Law on the Front Opposition Bench, the two men began to co-operate in a powerful support of Ulster. The new year of 1912 ushered in the opening skirmish. Mr. Winston Churchill, invited to address the Belfast Nationalists, proposed to speak in the City Hall, the theatre in which his father had made a famous clarion call in the cause of Ulster. Carson exclaimed that Ulster men would oppose such a profanation and there was a growl of angry protest, and the meeting was held instead in a football ground. Mr. Churchill spoke in an area guarded by 8,000 soldiers. F. E. Smith was only echoing his leader when he declared "that there was no length to which Ulster would not be entitled to go, however desperate or unconditional, in carrying the quarrel, if the quarrel was wickedly fixed upon her".

On January 26, 1912, in his first speech as Unionist leader at the Albert Hall, Mr. Bonar Law promised unqualified support to Ulster in her resistance to the present movement towards Home Rule. It should be observed that in all his words and actions Mr. Bonar Law adopted the Ulster cause and willingly took responsibility for extreme measures. Smith in all he did for Ulster was carrying out the Unionist leader's policy, and in no way violating orders or exceeding instructions. When, for example, Sir Edward Carson told a Belfast meeting on April 9: "We will not have Home Rule", Mr. Bonar Law was on his platform.

The Home Rule Bill was introduced on April 11. It secured a second reading by a majority of 101. The majority of British members was 39: that of English members was trivial. Two days later Carson demanded what would be the effect on the army? Many officers would resign if ordered to take part in coercing Ulster. It was a precise prediction of what was to happen in the spring of 1914.

Meanwhile, even Liberals were not united in their Irish policy.

A young Liberal, Mr. Agar Robartes, gave expression to their growing uneasiness by moving an amendment in the House during the Committee stage to exclude the four counties of North-east Ulster. He thus foreshadowed the compromise proposals of 1914, but his amendment was naturally rejected. In the debate Mr. Bonar Law said: "No Government would dare to coerce Ulster." Smith said: "Neither I nor the vast majority of my honourable friends would dream of recommending any course which we were not prepared, according to the measure of our capacity, to share."

Smith was born on July 12, Orangemen's day, the anniversary of the Battle of the Boyne. On his birthday in 1912 he went to Belfast for the great annual demonstration. One hundred and twenty thousand men and women marched out to White Abbey to the stirring accompaniment of a hundred and twenty bands, holding aloft hundreds of streaming banners. A steady rain lashed down upon the great concourse, but no evil weather could chill the ardour and determination of the Covenanters. Smith caught the breath of their enthusiasm: he lifted his voice into a melting appeal, and the great crowd rose as a man, when he said: "The present crisis has called into existence one of those supreme issues of conscience amid which the ordinary landmarks of permissible resistance to technical law are submerged."

He fed their patriotism in stirring phrases: "For how long", he asked, "have you nourished the dreams of the patriotism of your youth out of that deep well which inspired the Battle of the Boyne? For more than 200 years you have refreshed your own courage, and you have educated and inspired your children in the memories of that battle. But you cannot live for ever, however glorious they may be, on the memories of your ancestors. It is time for you—listen to me—to make history for yourselves to hand down to those coming after you, and I am satisfied that with a deep sense of individual responsibility every man and woman will sign that Covenant on Ulster Day. I make this final prediction to you, and that in time to come, when you and I may be gathered to our fathers, many a child in Ulster enjoying the fruits of your labours—it may be the result of cherishing the precious heritage of full civic and religious freedom—will say: 'My ancestors won them for me long ago at the Battle of the Boyne, and in a more recent

day by those who rallied round Carson, and signed the Solemn League and Covenant of 1912.”

After his speech on July 12 Smith had a letter of congratulation from Professor Dicey, the renowned Oxford jurist, a letter which is of particular interest in showing, in the judgment of the greatest jurist in England, at what point resistance to technical law became justifiable. He wrote :

ELSFIELD,
HINDHEAD,
HASLEMERE.

Private.
18 July, 1912.

MY DEAR SMITH,—

Let me congratulate you most heartily on your most eloquent, and what is much higher praise, most impressive speech at Belfast on the 12th. I have just been reading it in the *Belfast Northern Whig*, which I sent for at once in order to obtain the fullest report of it I could. I, of course feel, as any man of common sense must, the extreme difficulty of the position in which every Unionist is placed by the recklessness and dishonesty of the Government. Ministers believe, or affect to believe, that there is no risk of a Home Rule Act, such as they are trying to pass, causing civil war in Ulster. It is the absolute duty of Unionists to bring the tremendous danger with which we are threatened home to the people of Great Britain and Ireland. How can they do this but by speaking out and insisting upon the undoubted truth that not only the Protestants of Ulster, but thousands of Englishmen and Scots will hold that the resistance of Ulster is morally justifiable? It is all but impossible to do this without the use of language which may be technically treasonable.

On the other hand, no English Unionist can fail to deprecate even the mention of civil war. It is a necessity forced upon us by the conduct of the Government. I am sure you will allow me, not by way of criticism, still less by way of controversy, to point out the extent to which my position, and, I suspect, that of thousands of English Unionists, differs from that taken up quite fairly by you at Belfast. I believe it may be summed up in a few sentences. I come very much nearer to you than to Pollock, but at this moment I refuse to determine either affirmatively or negatively when and to what

extent Ulster will have the moral right to rebel, that is to resist by force a British army ordered to enforce a law passed by the Imperial Parliament. I admit, as every Whig must always admit, that circumstances may arise which would provide a full moral justification for the resistance of Ulster, but they have not yet arisen. Nor is it at all certain they ever will arise. For in my judgment the English Unionists are in danger of committing an error like that which old special pleaders used to describe as "leaping before you come to the gate". We are thinking and talking or writing about what circumstances will or will not justify rebellion, meanwhile we neglect our immediate and pressing duty; this is to take steps to prevent such ill-omened circumstances from ever arising. The Lords will, I assume, prevent the carrying of the Home Rule Bill under the Parliament Act until 1914. No Unionist ought, during this period of nearly 2 years, to grudge any effort or sacrifice necessary to ensure that the present Home Rule Bill shall never become an Act of Parliament. It is intended by the coalition to ruin the power of England. It inflicts a gross wrong on Ulster, and on every loyalist, whether Protestant or Catholic, in Ireland. I am convinced that Unionists can prevent the Bill passing into law, if Free Traders and Tariff Reformers will alike treat economical theories on which they differ as of quite secondary importance compared with the necessity of saving the political unity of the nation. Suppose for a moment that Ministers at the head of a constantly decreasing majority dare under the Parliament Act to pass the Home Rule Bill into law without a real and honest appeal to the electorate, the Home Rule Act will then so utterly lack moral authority that Unionists will not only have the right, but morally incur the duty, to repeal it. Revolution carried through by fraud would justify reaction. . . .

Yours,

EDWARD DICEY.

At the great Unionist demonstration at Blenheim on July 27 Mr. Bonar Law supported Sir Edward Carson. Smith also spoke and said: "Should it happen that Ulster is threatened with a violent attempt to incorporate her in an Irish Parliament with no appeal to the English electors, I say to Sir Edward Carson 'Appeal to the young men of England'."

Mr. Asquith could not believe that the Unionists would ever carry out threats of this nature; and he was assured by Mr. Redmond, accustomed to the rhetorical extravagance of his countrymen, that there was no substance in the Ulster agitation. There was, however, growing anxiety among the shrewder Liberals. Mr. Lloyd George had, from the outset, suggested that the Ulster opposition must be met. Mr. Winston Churchill wrote to Mr. Redmond on August 31 urging him to offer the option of "a moratorium for several years for the 'characteristically Protestant and Orange counties'," and he continued to make speeches about Federal Devolution which caused him to be mocked as an advocate of a return to the Heptarchy.

Meanwhile, Ulster acted. A solemn league and covenant was drafted and signed on "Ulster Day", September 28. Unionist leaders and Ulstermen acting in concert paved the way to this organised protest by a series of dramatic preparatory meetings.

The first was in Coleraine. Martin Ross, joint creator of "The Irish R. M." travelled from her home in the drowsy South to be present. Gazing from her carriage window in the early hours of the morning she saw the towering dark chimneys in silhouette against the "resigned sadness" of the Dublin mountains. As the train sped up the coast into Ulster she saw the sea coming in, green and menacing, lashing itself in white horses against the rocks, while the drab clouds scudded in flight from a harsh south-easter. She seemed to read in the resolute profile of Carson some new promise of desperate and virile enterprise. To her, seasoned in Dublin life, bred among the placid faces of the South-West, it was a new face and pregnant with a new significance. She looked at the prominent jaw, the wide cheek bones, the jutting nose, and did not fail to read their meaning.

They came to Coleraine. When she lifted her eyes she saw straining flags: stern-faced men tramped the streets, and at the railway station orange collars and blue collars shone in the sun. A drum rolled; the guard of honour appeared that was to escort Sir Edward Carson in a double line: all very quiet and intent. Then the town of Coleraine slowly emptied itself for the meeting. Slowly the great crowd poured forth from the streets on to a green hill by the river Bann. There was a pavilion set for the speakers: it faced away from the broad river: from its roof the flags strained and fluttered in the grip

of the strong east wind, which churned and furrowed the blue surface of the river. The vast audience was silent and absorbed: the speakers looked from their pavilion on to the face of the hill, on to an ocean of faces. Beyond these were many more, silent and invisible in the twilight.

Martin Ross watched F. E. Smith as he rose from his place. His face was heavily set. "I have seen", she said, "a face so inscrutably youthful, so immutably serious, in a deal at the Dublin Horse Show, when a man had so good a horse to sell that he was lifted above any mere trivialities or panegyrics. Sir Edward Carson's speech was like masonry; the speech of Mr. F. E. Smith was like the flight of a strong bird . . . the Northerners were letting themselves go. They cheer with a brazen resonance: down in the South we yell as if hounds were going away: as samples of the strangest, most generous of human manifestations either will do. The face and shoulders of Sir Edward Carson were suddenly raised above the hurricane, the face that is a blend of North and South, the powerful jaw was Ulster's, the eye was receptive and communicative like a Southerner's. He told his followers of his confidence in them, and his voice revealed his fatigue, and added to the force of his words. Into the mass of cheering that filled the air there crept a sibilant sound; they were calling for Smith, and he in his turn appeared above the heads, out of breath, and moved beyond his impassivity: 'When the history of this movement comes to be written', he called out, 'it will be said of Ulster that she saved herself by her exertions, and England by her example.' The train was coming slowly in at his back, with the engine veiled in steam clouds that had the red stain of the fire in them." The meeting was over.

Smith made a break in his campaign for Ulster by making a long speech in the Commons on November 29, 1912, on the Welsh Church Bill, in which he urged the Government to separate disestablishment from disendowment. He held the House for an hour in a broad and temperate survey, in which he argued that disendowment is a different thing from disestablishment. He urged the Government to settle the Welsh controversy on the basis of disestablishment only. Avoiding abuse he came forward, as a Methodist by upbringing, in support of the plea of Wesleyan Methodist divines which had been appearing in the *Morning Post*. He endorsed the speech of Mr.



SIR EDWARD CARSON AND F. E. SMITH

Bathurst, who had also pleaded for disestablishment, from the Tory Benches. His contention was that both in the House and in the country there were Liberals who, while convinced of the need of disestablishment, profoundly disliked disendowment.

His speech was in essence an admission that disestablishment in Wales was inevitable. Disendowment was an entirely different matter. He confessed that the argument from representation was in the long run irresistible. He admitted also the significance of the strength of the Welsh demand as shown by the parliamentary representation of Wales, but denied its connection with disendowment which was a moral and ethical question. The democratic argument might justify disestablishment, but nothing could justify disendowment.

On the heels of the Coleraine meeting followed an amazing demonstration at Belfast. This time Smith was accompanied by his wife. They had a magnificent meeting in the Ulster Hall. Outside, tightly wedged together, stood thirty thousand people in deathly and absolute silence. A platform was erected outside, and all the speakers climbed it in turn to address the audience. Inside the hall a moment of drama came when there was suddenly unfurled the original banner that was carried at the Battle of the Boyne, sent reverently to Belfast and carried by the lineal descendants of the man who bore it in the great Protestant victory.¹ Then a casket was presented to Sir Edward Carson containing a key, the symbol of Ulster, key to the Irish problem. Then came the pen with which he was to sign the Covenant. But it was the crowd outside which expressed the true significance of the Ulster resistance. It waited immobile outside the building: vast and still. From that whole dark mass there did not even spread the murmur of low conversation. They waited in the same patient and unbroken silence, which carried a menace to the Imperial Parliament far beyond the power of threats or clamour.

Next day there was service in the Ulster Hall. Again all was grim and serious. The congregation of 3,000 broke into the hymn "O God, our help in ages past." The Moderator delivered an impressive address. Then a procession was formed which marched to the Town Hall. From the steps Mrs. Smith

¹ Mr. Anketell Reade.

and Mrs. Craig watched Sir Edward Carson walking in to sign the Covenant. It lay on a round table covered by a Union Jack. Carson was very pale and grim: in dead silence he strode up to the table and signed. Lord Londonderry followed; then the Bishop; then the Mayor and Corporation in full robes; then the Harbour Board, and all the heads of Belfast business houses. Then the rank and file entered and began to sign at two long places—thousands of people, rich and poor, thronging into the hall together. After lunch the massed Orange bands, and the Orangemen marched through the town: the procession took one and a half hours to pass through the streets, down avenues of silent people. Mrs. Smith embarked on the boat, the *Patriotic*, early and at about 9.30 she heard the roars of cheers and the beating of drums which heralded the approach of Carson, Smith and the other speakers. There was a shed on the wharf-end with huge sliding doors, into which a large part of the crowd had already poured. When the police heard the murmur of the great crowd approaching, they quickly closed the gate so that the people came through one by one, for they were frightened that they might rush into the shed and cause a disaster.

They decorated Sir Edward's cabin with roses: he said a few words of farewell from the gangway: then the ship slowly moved away from the quay: the crowd sang "O God, our help in ages past", then as the distance increased they broke suddenly into the plaintive song "Come back to Erin." There was an ineffable sadness about it; it expressed affection and trust, but it expressed, too, all the sadness of farewell. Those on the ship were conscious of a powerful emotion as they looked at the sea of white faces, growing slowly more distant, and listened to the sad melody, the cadences of which faded gently from their hearing. It seemed to them to express with simplicity and affection the faith reposed by Ulster in these men who had come from another country to sustain her cause. Then they heard the scream of rockets which flew up from the quay-side and trailed their golden paths through the sky, and behind them they saw beacons flaming into sudden brilliance on the spurs of the mountains. The men in charge of the lightships burned flares as they passed, and vessels sounded their sirens. Constant wireless messages flashed in to the operator of the *Patriotic*. "We won't have Home Rule, God Save the King!"

Fifteen thousand people waited for the ship in a drizzling rain on the dock of Liverpool. They were the English reserves in the fight for Ulster. It was the early hours of Sunday: the wind was in the east; yet the crowd at the docks was only the vanguard of the vast concourse which was massed down Dale Street and Water Street as far as the eye could reach. It was a hundred thousand strong, the greatest crowd that Liverpool had ever seen, men and women of all ages and of all classes. There was in their enthusiasm a religious tinge which showed that Liverpool had consecrated itself in what it believed to be a sacred cause. The meeting was practically spontaneous. There had been little preparation. At ten minutes to eight the *Patriotic* came into view: the rain ceased, and a struggling sun broke through the clouds. The haze on the river lifted, and the crowd was revealed waiting in a superb marine amphitheatre with the Princes stage below, the upper stage immediately above, and the Princes Parade higher still in the background, all visible from the deck of the steamer. The ship drew alongside; her Union Jacks fluttering, and her siren screaming: there was an immediate thrilling response from the shore: the great crowd broke into a sudden deep-throated cheer: twenty drums were rolled, hats were waved, handkerchiefs fluttered. Twenty bands clashed forth defiance and hopes of victory. There were brass bands, and concertina bands, there were waving banners, many woven with the figure of William III, Saviour of British Liberties and Champion of Protestantism.

They broke into loud cheers; again "O God, our help in ages past" was sung. Archibald Salvidge was ready with an address of welcome—then the party disembarked, crowded into two open brakes and drove off. Soon the brakes were enveloped in the crowd: the horses were taken from the shafts and the brakes were dragged to the Club by the yelling crowd. So far as the eye could see forward or backward the streets were black with people, but all orderly and good tempered.

Mrs. Smith summarised her impressions of this meeting when she wrote to her sisters. "Yes! we all thought the dummy cannons absurd. It was only at Portadown that they had them. We none of us knew anything about it, we all said: 'How the Radicals will laugh!' The rifles are not dummy, but *very* old ones. They have got brand-new ones put away ready for use, but I believe it is illegal to carry firearms, or something,

and it is supposed to be symbolical that they are ready for anything, but all peace now and nothing would go off. They are determined not to resort to force unless driven to it by the Government turning the soldiers on them. I am sure none of us will ever forget this time in Ulster, and I can only say that woe betide the man who tries to force Home Rule on Ulster. . . .”

On January 16, 1913, the third reading of the Home Rule Bill was carried by 110. F. E. Smith made one of the most powerful debating speeches he had yet delivered in the House. He was up by twenty minutes to five, and the House was full by the time he rose, amid the cheers of an expectant opposition, to answer the Solicitor-General. He protested against Sir John Simon's slighting comments on Mr. Rosenbaum, author of a Unionist handbook against Home Rule. Sir John had, he said, pronounced this gentleman's name with a suggestive sneer, which had made his supporters roar with laughter. Smith censured him sharply for thus ridiculing a man who could not defend himself, and whose only fault was that he was a Jew. Simon rose at once, and denied any such intention to wound. "Whatever he may have intended," replied Smith indifferently, "there can be no mistake about the intention of those who heard it read out, because it was immediately received with derisive laughter." He passed from the Solicitor-General, and engaged the Prime Minister on the more vital topics that lay in dispute. He took the Prime Minister's speech of the night before, and dismissed it as the speech of an optimist—the members of the Government were all optimists, but the Prime Minister was a particularly confirmed optimist. He quoted acidly from Dr. Johnson: "It is always a disadvantage when self-interest coincides with the accuracy of a proposition by no means self-evident." The Opposition laughed and cheered loudly at this. "The Government are all optimists," he repeated. "An optimist is an admirable character if it means a person who exhibits fortitude or even a cheerful recklessness in the face of his own danger. It is a much less admirable character if it merely means one who retains cheerfulness before the prospect of danger to others."

Every obstacle to Home Rule was to be swept away, according to Sir John, as if by a magician's wand, and ancient animosities were to disappear at the moment of their greatest bitterness.

The Solicitor-General, he admitted, might be right but what

if he was wrong? "It makes no difference to him. He will still maintain a position of great—perhaps even of greater—dignity which nobody will grudge him—his occupation will not be interfered with if he is wrong. The only thing he can possibly lose will be his reputation as a prophet." (Opposition laughter.) As Smith said, there were a great many other people who could not afford to take so optimistic a view of the matter, yet the only real answer made throughout the debate was that they must take an optimistic view of what was to happen in the future. What was the House to make of the declaration of a prominent Nationalist Member, "that we shall remember our friends and our enemies"? The Prime Minister had admitted that he contemplated this and other utterances with strong disapproval, but he could only explain it by saying that it was partly due to the greatest and most glaring of all Irish grievances, the payment of tithe. "What does that prove?" he asked. "It means that because their fathers had to pay tithes forty years ago, the present generation of Nationalists rejoice at the wounds and humiliations of the sons of the men who relieved them of the obligation of paying tithes. Is this an illustration of the happy results of gratitude in Ireland?"

Later, staring at the Prime Minister, he said amid loud Unionist mirth: "Some men are born optimists, some men are optimists from choice, some from compulsion. The Rt. Hon. gentleman does well to trust the Irish people—they gave him the Welsh curates, he gave them Ulster. One accommodation deserves another."

As to the parliamentary aspect of the Bill F. E. Smith recalled the admission by Mr. Winston Churchill that Ulster could make the Bill unworkable, and the chastened attitude of some of the Ministerialists on the question of Ulster. "I wish they could see what I have seen in Ulster," continued Smith with great animation, and he described that memorable Belfast meeting, the drive from the Ulster Club to the docks through the endless crowds of virile and determined men; the recollection of that scene had never faded from his mind, nor could it do so. It inspired this last appeal on behalf of the people of the North.

He asked a final question: "Is it not the duty of the Government to put their cards on the table? (Opposition cheers.) Are not the stakes too high for the two sides of the House

to be manœuvring for position in this matter? The Prime Minister cannot expect the Ulster Unionists to pay lip service to a Bill they cannot accept. Do the Government mean that they would take the Bill without Ulster, leaving Ulster as she is? If so, why don't they say so? We could then at least address ourselves to realities in this discussion. . . . When the Prime Minister asks us what we propose, I reply that he should tell us plainly this: 'Will he on any terms consent to the exclusion of Ulster?' If so, what are those terms? If there are none we know where we stand. The responsibility is the Prime Minister's alone," was Smith's unique peroration. "I would not share it if I were compensated by his position, his reputation and his gifts."

He was one of the first Unionist members to leave the House: he was at once surrounded by a crowd of supporters. He walked up Whitehall towards the Constitutional Club, followed by a crowd waving flags. A detachment of mounted police dashed up to the crowd and scattered them hurriedly and awkwardly. Smith was hustled, but he kept his feet. Another rush was made, and one of the horses of the mounted police blundered into him. Smith remonstrated with the constable, but he was forced on to the pavement. Eventually he reached the Constitutional Club.

Outside the Commons all the approaches had long been crowded with noisy supporters of Home Rule, waiting for the definite news that the Bill had been steered through. At sixteen minutes to eleven the crowd in Parliament Square received news of the passing of the measure. An excited Home Ruler rushed out of the House: "Hurrah, lads! 110 majority!" Followed a great gust of cheering from the Liberals in the crowd, blended with furious Unionist hissing. Hand torches were kindled and waved to and fro in the darkness. An equally excited crowd stood outside the Constitutional Club, from the balcony of which Smith and other Unionist speakers addressed it. A party of Nationalists suddenly appeared in its midst waving a green flag, which was captured after a violent battle; the Home Rulers were pitchforked out of the crowd, which saluted their departure by singing "Rule Britannia!"

F. E. Smith leaned over the balcony and said:

"You are met together immediately after the third reading of the third Home Rule Bill, which has been carried in the House

of Commons by a majority of 110." (*Cheers and booing.*) "This, however, is not the first time a Home Rule Bill has passed its third reading in the House of Commons. Twenty-five years ago, a Bill was passed amid the cheers of the Nationalist Party, just as this Bill was passed to-night. Twenty-five years ago an effective Second Chamber referred that measure to the people, and the people defeated it. To-day there exists in this country a Second Chamber effective solely for delay. I don't know whether the delay which is in their power to impose upon the progress of this Bill will suffice to defeat it or not, but this I do know, that if the powers of delay which are still retained by the Second Chamber are not sufficient for that purpose, there is in Ireland a force that is stronger. . . ."

The end of his sentence was drowned in cheers. After a long pause he continued :

"The fate of this Home Rule Bill will not be determined in this House of Commons. It will be determined in the streets of Belfast" (*cheers*) "and Belfast and Ulster will win because they are strong in their own conviction, and they are strong in the support which is given them by Unionists in England. This is my last message to you—we shall not fail you in this quarrel, whether it takes place in the House of Commons, or in Ulster, and we ask you in your turn to stand by us when the crisis comes."

THE ULSTER CRISIS AND THE COMING OF WAR (1913-14)

THE Home Rule Bill was next sent to the Lords, where on its second reading it was rejected by 257 votes.

It was now clear that Ulster must depend upon armed resistance. The leaders formally constituted the Ulster Volunteer Force, and through Lord Roberts, secured Lieut.-General Sir G. Richardson, K.C.B., to command it. A movement was started by certain Liberals to prosecute Sir Edward Carson for treasonable conspiracy, but Mr. Redmond would not agree, and the idea was abandoned. Throughout the summer of 1913, Mr. Winston Churchill continued to hint at the exclusion of Ulster.

On September 11, Lord Loreburn, the ex-Lord Chancellor, and a Radical of the old school, writing in *The Times*, urged a conference, as an enforced Home Rule decision would cause bad blood in Ireland. Was this devolution? Mr. Redmond was disturbed, the Liberals puzzled, and the Unionists greatly encouraged by this proposal, while a serious strike in Dublin, under Larkin, showed that there were limits to Mr. Redmond's control over the Irish proletariat.

On September 25 the second "Ulster Day" was celebrated at Belfast with a parade, and Carson accepted the Chairmanship of the Provisional Government. Two days later F. E. Smith acted as galloper at a review of the Belfast volunteers.

Meanwhile, he had talked with various dispassionate men in high position in England who were anxious about the situation, and he communicated their views to Carson, and the outcome of these conversations is shown in this memorandum which he wrote at the time.

CRAIGAVON,
STRANDTOWN,
CO. DOWN.

September 29th, 1913.

I repeated to Sir Edward the substance of the conversation which my friends held with me. He was most anxious to learn whether I had impressed upon my friends the serious position here, and the certainty of a rising of all that part of the province which was Protestant, if the present Bill were forced upon the North. I told him that in their view Lord Loreburn's proposal of a conference should not be ruled out by the leaders on both sides. Sir Edward replied :

- (i) that Lord Loreburn was not in the Government.
- (ii) that the evidence available to him led him to believe that the Government were not cognisant of Lord Loreburn's intention to write such a letter.
- (iii) that no member of the Government has expressed any approval of the letter.
- (iv) that Devlin, Dillon and Redmond had, if correctly reported, repudiated any conference which did not accept the principle of an Irish Parliament (presumably including Ulster) and of an executive responsible to that Parliament.

Sir Edward pointed out the absurdity of inviting him or his friends into a conference on the condition of accepting a principle which they were pledged to resist, if necessary, by arms.

I asked what Sir Edward's attitude would be if a proposal were forthcoming to exclude Ulster, or some portion of Ulster, from the operation of the Bill. I added that it was obvious that no accommodation was possible unless sacrifices and concessions were forthcoming from both sides.

Sir Edward replied that no one was, or had been, more ready to make any possible sacrifice than himself and certainly that no one was more conscious than himself of the appalling public calamities into which we were so rapidly drifting : that no proposal had ever been made to him upon the basis that Ulster should be excluded : that on the contrary the Government had repeatedly ruled out such an expedient as inadmissible : that he did not know even now whether any such proposal was made, or was likely to be made : that if he were seriously

asked to take part in a conference upon the basis of the exclusion of Ulster he should, of course, readily accept such an invitation.

I pointed out to Sir Edward that the abandonment of Ulster would mean a grave risk for the Nationalists, and that such a concession (if forthcoming) demanded reciprocal concessions on the part of Sir Edward Carson and his friends. It was impossible to ignore the unbroken Parliamentary representation of that part of Ireland which was in favour of Home Rule. If Redmond and his friends could be induced to consent to the exclusion of Ulster, Sir Edward and his friends might be expected :

- (i) to agree upon a Bill applying the principle of Home Rule to the provinces of Ireland other than Ulster.
- (ii) if necessary to use their influence to make Home Rule so limited a success in the rest of Ireland.

Sir Edward's first impulse was to declare that he could only stand aside in such a contingency abstaining from opposition, but unpledged to help. I told him that, in my opinion, instructed opinion would look for Sir Edward's positive co-operation in recommending the reconstructed Bill to the Unionists of the South. Sir Edward naturally said that it would be necessary for him to consult his friends, but I myself formed the impression that if other matters were satisfactorily adjusted he would consent to give his help in this way, and it is certain that if he undertook to do so he would carry out his obligation upon the most generous construction of its scope.

Sir Edward, to whom I read this memorandum, asked me to make two additions for the benefit of my friends on the cross-benches :

- (i) if His Majesty's Government found themselves in a position to introduce proposals for all-round devolution, this would greatly simplify his Ulster difficulties. His followers must strongly object to being dealt with first, or in an exceptional manner.
- (ii) failing this, and assuming the adoption of a purely Irish arrangement which excluded Ulster, the suggestion that he should do his best to make such a scheme workable, involves very real sacrifices on his part. He is a South of Ireland man. He has spent his life in

resisting Home Rule, not merely in Ulster, but in Ireland as a whole.

(Signed) F. E. SMITH.

The memorandum was shown very confidentially to some of the author's friends, and it became known indirectly to leading members of both parties.

At the end of September Mr. Bonar Law met Mr. Winston Churchill at Balmoral. He told him that the Unionists were considering whether Ulster might take a plebiscite on the question of recognising and accepting an Irish Parliament. Smith was urging a conference on these lines. Mr. Lloyd George, according to T. P. O'Connor, had held these views from the outset.

The Liberal ministers assembled at the end of September at Brodick Castle, Arran. The outcome was apparently visible in conciliatory speeches by Mr. Churchill at Dundee on October 9 on the Ulster question, and in the opening of Mr. Lloyd George's Land Campaign, to divert the minds of the people which were exhausted by the Irish issue and inflame them against the wicked landlords. Mr. Lloyd George was evidently eager for a *rapprochement*, and to feel his way to a more friendly understanding with certain members of the Opposition. On October 6 he wrote to Smith :

11 DOWNING ST.,
WHITEHALL, S.W.

October 6, 1913.

MY DEAR F. E.,—

I showed your letter to the Prime Minister and to Winston. I thought on the whole that you meant me to communicate its contents to them. That enabled us to discuss the proposals that you indicate as the basis for a possible settlement. When can I see you to talk over the situation? I shall be in town early this week, but I ought to see you on Monday as the Cabinet meet Tuesday.

You know how anxious I have been for years to work with you and a few others on your side. I have always realised that our differences have been very artificial and do not reach the "realities".

What is the good of Steel-Maitland talking of a *rapprochement* when he sends Cave to Bedford to start another campaign

of pure scurrility? That must mean war to the knife. I know enough of Cave to be able to conclude that he would not be a party to this dirty work unless he had been officially asked to do it. This is certainly not the way to conciliation.

Yours sincerely,

D. L.G.

On October 10, F. E. Smith made an important speech on the Ulster crisis at West Bromwich. He spoke after consultation with Bonar Law, but nominally he was giving a personal view. This view was that Ulster must be excluded for a time, and that Ulster was not concerned to fight for Southern Ireland. Why not a conference as proposed by Lansdowne and Loreburn? That is to say, Ulster would give up blank opposition to Home Rule, and concentrate on self-defence. (Sir Edward Grey had suggested that an All-Ireland Parliament might allow Ulster "Home Rule within Home Rule", and other Liberals inclined to this view.) In November Mr. Asquith saw Mr. Bonar Law in the hope of a compromise, and duly reported his proceedings to his task-master, Mr. Redmond, admitting that the Cabinet was restless. The Cabinet discussed Mr. Lloyd George's idea of excluding Ulster—or part of it—for five years, and Morley and Mr. Churchill supported this view. The steady pressure of Ulster agitation coupled with the peaceful overtures of Smith were having an effect. On the 24th, Mr. Lloyd George told Mr. Redmond that if no offer were made soon—and the first offer should proceed from the Nationalists—he, Grey, Haldane and Churchill might be forced to resign; and Bonar Law speaking four days later in Dublin recalled the sad case of James II, whose army refused to fight against William of Orange. A week earlier MacNeill and Pearse had started the National Volunteers in Dublin, in reply to Ulster.

The irritation of the extreme Radicals at this peacemaking is reflected in *Reynolds' Newspaper* for November 24.

"In inside Radical circles", it said, "there is undisguised concern at the manner in which Mr. Churchill is seeking to hustle his Cabinet in the direction of offering a compromise to the opposition in regard to Ulster. Feeling is becoming quite a little strong on the subject. One eminent member of the Cabinet who attends church quite regularly was heard to remark one day this week that

'he would be d——d if he would allow the Liberal party to be run by F. E. Smith'. The relevance of the outburst is probably accounted for by the fact that Mr. Churchill and F. E. are known to be warm personal friends."

Before the 1914 session opened Mr. Asquith told Mr. Redmond that he anticipated trouble in the Cabinet over the huge Navy estimates, to which Mr. Lloyd George had referred pointedly in a New Year message on disarmament and of opposition in the House to the Army Annual Bill, the Unionists urging that the troops ought not to be used against Ulster.

It seemed clear, therefore, to Asquith that the Government should make an offer to Ulster, and so deprive her resistance of moral force, and he suggested that the Ulster M.P.'s at Dublin might have the right to appeal to the Imperial Parliament against Bills affecting Ulster.

Sir Edward Carson was very moderate in the debate on the Address on February 11, and Mr. Bonar Law said expressly: "Ulster does not claim to veto Home Rule for the rest of Ireland." Mr. Lloyd George next proposed to the Cabinet that a plebiscite should be taken in each Ulster county on the question of exclusion from the Irish Parliament for, say, three or perhaps five years. Mr. Redmond, advised of this, put forward the plan, first outlined by Sir Horace Plunkett, and now adopted by Mr. Devlin, Ulster Nationalist, that Ulster should be allowed to leave Home Rule Ireland after ten years if she then wanted to do so. Mr. Lloyd George told Mr. Redmond that he underrated the peril from Ulster; Mr. Redmond, very reluctantly, agreed on March 2 to exclusion for three years of any Ulster Counties that desired it.

But Mr. Asquith, now more or less awake to the crisis, acted for himself, and published on March 9 in a White Paper his proposals for compromise—it was the day of the second reading of the Home Rule Bill, in its third session. Exclusion for any county desiring it was to be for six years. Sir Edward Carson unhesitatingly declined the offer. Mr. Churchill was stirred by this rejection into an angry speech at Bradford in which he said: "We will put these grave matters to the proof," and ordered battleships to Lamlash.

Mr. Bonar Law improved on the occasion by moving a vote of censure on March 19, in which he demanded a referendum on Irish Home Rule. The Unionists now thought that the

Government were on the retreat, but the British Army in Ireland was becoming restive and uneasy. Was there a real probability of it being used to coerce Ulster? General Seely, Secretary for War, had seen General Paget, the Irish Commander-in-Chief, on December 6, 1913, had talked at large about the law and the soldier, and given Paget the idea that the troops might refuse to shoot Orangemen. On March 17 the Cabinet ordered troops to Ulster to protect depots, and more ships to Dublin, Belfast and Lamlash, as it was suggested that the troops could not safely go by train, and that disturbances might follow any troop movements in Ulster. Paget was called to London for further instructions from Seely. Paget returned to the Curragh on March 19. He talked to his officers, giving them what he supposed to be the views of the Secretary for War, and dropping the broadest hint that those who were unwilling to serve against the Ulster Volunteers had better send in their papers. The effect was apparent the next day, March 20, when Paget was forced to advise Whitehall that the Brigadier, General Sir Hubert Gough, and fifty-seven officers in the Third Cavalry Brigade "prefer to accept dismissal if ordered North". They had all understood that their choice lay between active operations against Ulster, and dismissal with loss of pension.

The chief officers were summoned to Whitehall and assured by Seely that they would not be used to coerce Ulster, and a violent debate followed in the House, in which Mr. Asquith repudiated Seely's pledge. Sir John French, C.I.G.S., Sir John Ewart, Adjutant-General, and Seely himself resigned. Mr. Asquith took the War Office on March 29 and sent Macready to command in Ulster.

A month earlier, on February 21, at a vast meeting at Rugby F. E. Smith had predicted what would happen. He spoke for an hour and a half, amid the closest attention. There were many interruptions, but he silenced them with douches of icy sarcasm. He ranged over the entire Liberal programme, poured venom on the Parliament Act, and ridicule on the People's Budget. He soon showed how dangerous it was to heckle him. He was speaking of the Insurance Act in relation to the subject of the Parliament Act, and arguing that the democracy of this country had allowed themselves to be weakened by a greater repudiation of political power, than any free demo-

cracy in the world had voluntarily made. "Whoever told you at the last general election that an Insurance Act like this was going to be passed? Is there one man listening to me in this Hall to-night, who knew for a fact at the last general election that a Bill like the Insurance Act was going to be passed?" (A voice: Yes.) "The gentleman says he knew. Well, he is the only man in England who did." (Laughter and applause.) "Why didn't he tell us?" (Laughter.) "I suppose he is a supporter of Mr. Lloyd George. Why didn't he come and get your votes at Rugby by telling you of the great blessings that were waiting for you if this Government was returned to power? He said nothing." (Laughter.) "He may have thought a great deal" (laughter), "and we never knew the deep purposes that were revolving behind that small and silent head." (Loud laughter.) He went on to say that under the terms of the Parliament Act the Home Rule Bill was caught in a strait-waistcoat of iron. "The Government is caught in that strait-waistcoat. They cannot alter the Bill which once gets caught in the embrace of the Parliament Act. The Home Rule Bill has been caught in the Parliament Act. It can only be altered now by consent. It either has to become law in its existing form or it has got to be changed by consent. Otherwise, it cannot become law at all. What is the position in which the Government finds itself? Having deluded all their supporters into the belief that Ulster was merely bluffing, and that there would be no really effective resistance in Ulster, they have now had to wheel right about face and come down to the House of Commons and the country and say: 'We are willing to make enormous concessions, we are willing even to consent to the exclusion of any part of Ulster.' But why consent to the exclusion of any part of Ulster if it is only bluff and there is no seriousness in it? If they are all wooden guns, and the men are braggarts blustering, and do not mean anything, and ought to be put in gaol? Does this not prove conclusively that we are right, and they were wrong when they said that they could bruise and break in the name of Liberalism the soul of a small people?"

"There has never been for thirty years a small nationality struggling to maintain itself in the world on behalf of which the Liberal party has not burst into emotional sobs. The only people in the world near their doors that by the blessing of

God has had to struggle for its existence for many generations in our history is Ulster. But what has been their attitude to Ulster? 'Shoot them down if necessary.' But now they have come to their senses, and they find they cannot do it. In this connection the most important speech that has been made was made not by a politician, but by a soldier, and it took exactly half a minute to deliver it." (Cheers.) "It was the speech that was made by Lord Roberts, who said in substance: 'I have only to tell you this, that the order to the English Army to march upon Ulster means the ruin of the English Army.' That is true, and we know it is true. If it is true, and you cannot use the army without ruining the army, who is going to put down the men in Ulster? Is the Irish Nationalist party going to do it? The Irish Nationalist party might march from the South of Ireland to the North of Ireland, but I do not think they would get far, and those that did would never get back." (Laughter and cheers.) "It would be difficult, at this stage of the world's history to put down 100,000 resolute men, who are armed to protect what they believe to be vital in the maintenance of their political and civil liberty, and this Government will never attempt to do it, and that is why the Home Rule Bill in its present form will never become law and can never become law."

On March 30 was held the debate on the army crisis in the House of Commons. Mr. Asquith had a surprise in store for the House, but the secret of the Cabinet's coup had been jealously guarded. Tempers on both sides of the House were short; the chamber was full and expectant. The Prime Minister answered a number of questions bearing on the crisis: some he evaded. He appeared uneasy: once he said: "I am not going to answer questions about Cabinet conversations." There was a faint cheer from the Liberals, and an angry roar from the Opposition. "All right, don't bite!" they called to Mr. Churchill, who had exclaimed: "Gladly, gladly would I assume the responsibility."

There were loud Opposition cheers when Sir Edward Carson came in and took his seat between Mr. Bonar Law and Mr. Balfour. The Unionist back-benchers leaped to their feet, and waved their order papers in the air. Then came a hint, the first, of the play that was about to be acted. Colonel Seely entered, and walked, not to his seat on the Treasury Bench,

but to the corner seat above the gangway at the end of the third row behind. He sat there solemnly with folded arms, as an observer said: "irreproachably funereal," the picture of courageous martyrdom. The Chief Whip shot a glance of pleasure at the distinguished outcast, a glance of contented stage management.

The Prime Minister rose in reply to Mr. Bonar Law. He had the air of a man about to unearth an unexpected ace. He said that he regretted that Field-Marshal Sir John French and the Adjutant-General had felt it their duty to resign. He spoke eloquently of their devoted service to the army and to the State. The Secretary for War, to his profound regret, had thought it right to take a similar course: according to custom he would make his own statement to the House: "In the circumstances, after much consideration, and no little reluctance," he said with intense relish, "I have thought it my duty, for the time at any rate, to assume the office of Secretary of State for War." The Ministerialists jumped to their feet: they cheered, shouted, and waved their order papers. Mr. Asquith then added that the King had approved his decision, and that he would retire from the House in which he could no longer sit until his constituents authorised his return.

Colonel Seely delivered his speech of resignation. One eyewitness remained unimpressed: "It was couched in the Martin Harvey vein *à la* Sidney Carton," he said, "and was marked by the Prime Minister's sensational prelude and by a most dry-eyed acquiescence on the part of his rather inattentive hearers." Mr. Bonar Law asked whether the debate on the second reading of the Home Rule Bill would be postponed, after the Prime Minister's statement, but he replied: "I have already said I have accepted this office. I am no longer a member of this House." Mr. Bonar Law was surprised: "Does the Rt. Hon. gentleman really mean that at a time like this the second reading of the Home Rule Bill is to be taken when he is not here to give his assistance to the House in the discussion of the matter?" Mr. Asquith replied that he had taken the best advice, and he passed out of the House amid loud cheers.

F. E. Smith's indictment of the Cabinet followed. It was a brilliant piece of forensic analysis. Throughout the speech he sought to persuade, not to provoke. He penetrated at once to the heart of the question, and he established the

unanswerable point, unchallenged by the opposite benches, that Mr. Churchill's Bradford speech, the blood-and-iron speech, in which he had cried: "We will put these grave matters to the test," following the conference with Colonel Seely and Sir Arthur Paget, was part of a definite and concerted campaign against Ulster.

The Government's declared intention had been to safeguard the armed depots. Smith ridiculed the probability of so large a naval armament as a battle squadron and ten destroyers being sent out for such a negligible purpose. He coldly reviewed the order of events: they stood at the parting of the ways, but no reasonable man could say that affairs had yet passed beyond the hope of settlement. Then on March 14 the First Lord went down to Bradford, and at a moment when men of all parties should have been trying to soothe the violent passions which were then raging. He said the Government was "going to put these grave matters to the proof", and on the same day a letter was sent to General Paget with certain instructions as to military movements in Ireland. If all the instructions were contained in the letter, why was General Paget sent for from London by the Secretary for War? Smith deliberately hazarded the inference, which was endorsed by loud Opposition cheers, that there were instructions which it was not convenient to put in writing. No light whatever had been thrown on the interview with Paget on the 18th, but it was significant that orders were given to the fleet and that a battle squadron was moved to the coast of Ireland. It was clear from the statement which the Prime Minister made to the Press on Sunday, that he was not responsible for that movement. This despatch of the fleet to the coast of Ireland was but another stage in the process of "putting these grave matters to the proof".

The Leader of the Opposition had produced a detailed account of what Paget had said to his officers. It was known that there were four other accounts in existence substantially confirming what the Leader of the Opposition had said. During the whole of the last week the Government had had an opportunity of inviting contradiction from General Paget, and no contradiction on any material point had been put before the House of Commons. They were bound to accept the statement made by the Leader of the Opposition. General Paget said that active military operations were to be begun in Ulster. It was

inconceivable that a soldier like General Paget should make a mistake as to the instructions which he received from the Secretary of War. It was trifling with the House to say that these movements of troops were against a few casual depredators. The Prime Minister—Smith reminded the House—had said that these movements did not possess the slightest strategical significance, but he observed that if after the occupation of these posts reinforcements had followed, as was unquestionably intended, the whole of Ulster would have been strategically commanded. The highest military opinion did not accept Mr. Asquith's repudiation of the strategic movements. "The scheme was Napoleonic," said Smith amid laughter: he paused and added: "but there was no Napoleon!"

He called forth more cheers by bitter criticism of the new fiction of "the people and the army", which had been invented and twisted by the Government into a new and corrupt election cry.

He observed that that cry came very ill from the head of the great sister service, and that it was a campaign which from its very nature, and from the facts, must maroon the Government front bench. Then he asked if Lord Morley was going to take part in the new campaign: the Opposition cheered. Before the Government had ascertained the temper and disposition of their followers, the whole Cabinet was deeply committed to the policy of the late Secretary for War. They were well advised to try and keep him: it was the act of men who ought to have been in the dock with him. The first point which the House had to decide in this new campaign was: were these officers wrong at all? If they were not wrong it would be an abominably wicked thing to try to inflame the country against the army. The lowest criminal was entitled to a hearing before he was broken. The army order which had been issued showed that the question which General Paget put to his officers was grossly improper and was a breach of discipline, but the Government could not dismiss General Paget: he had only done what he was told to do by them. In such circumstances no one could say that the officers were wrong in acting as they did. General Gough, said Smith, had been vilely treated from beginning to end of the business. It was not true that he had gone straight to a Tory Club with the documents he had received from Colonel Seely as Mr. R. Mac-

Donald alleged. He did not belong to a Tory Club, and had never been inside one in his life.

F. E. Smith finished his speech on a serious and statesmanlike note: "I do believe", he said, "that a time has come when men of all parties in this House would be well advised to consider, not where one party is drifting, but where we are all drifting." (General cheers.)

"We shall not arrive at a conclusion upon this point by long historical arguments and recriminations. Nobody will ever persuade us on this side of the House that we have not been justified in the things we have done, and no one will ever persuade the hon. gentlemen opposite that they equally on their part were not justified in what they have done. These events will be decided by the historian, and he will care little to hear us complaining with a loud voice that the beginning and end of all these difficulties has been merely your subjugation to the Irish Nationalist Party. He will care less to hear you say that the principal responsibility rests upon the shoulders of those who have inculcated and preached the doctrine of insurrection. What he will say is 'the whole House of Commons—all of you—who ought to have been trustees not for any party, but for the nation as a whole—inherited from the past a great and splendid possession, and where is it now?' As far as I am concerned I can only say, and I believe as far as many who sit on this side of the House are concerned, late as is the period at which this controversy has arrived—I believe many of us are willing that it should be conducted in those later stages, even though the mischief may be irreparable, with a deep sense of responsibility, and an anxious desire to see even while the water runs under the bridges whether nothing can be done by the House of Commons which retains some memory of the patriotism and traditions of the past."

That this speech, which was from a debating point of view a brilliant success, also contained repeated pleas for a peaceful settlement is shown by the comment in the *Westminster Gazette* for March 31:

"Mr. Smith did not go so far as his more hysterical supporters in the Press, and on the whole presented his case in a dignified and courteous way. He was willing to admit that there might be an answer to his charges: moreover, he ended by making a general appeal to the House to take stock of the present position—to consider 'where we are all drifting to'. His final remarks were an appeal to both sides not to close the door on any possible settlement

which might put an end to the present crisis. These few words were, indeed, much the most important part of his speech, brilliant as it was from the advocate's point of view."

The Ulster Volunteers now felt it necessary to arm themselves more fully, for the Government refused concessions, and their enemies in the South were becoming stronger and stronger, as thousands of men weekly joined the National Volunteers, which had come under the nominal control of Redmond. On April 24 a cargo of arms was landed at Larne.

Mr. Asquith in a final and belated effort at compromise introduced a Home Rule Amending Bill into the Lords on June 23. By this time most of the six counties were to have exclusion, if they wanted it, from Home Rule for six years. On July 13 and 16 Mr. Asquith and Mr. Redmond tried to agree as to the precise areas thus affected, but failed. At the King's invitation a conference representing Government, Opposition, Nationalists and Ulster met at the Palace on July 21-24, but failed to agree as to method or area. Redmond apparently wanted county plebiscites, and Ulster refused. On July 26 the National Volunteers landed arms at Howth, and had a skirmish with troops on their way into Dublin. It appeared that matters had advanced to a position of hopeless deadlock, and that only the sword of civil war could decide the feud. Yet this tragic finale was turned aside, and the whole Irish issue submerged for the time in a greater disaster. The outbreak of war in August, 1914, changed the whole situation. The Irish at once decided to postpone the settlement of their private differences until the European War should be over. Perhaps many of them did not believe that it would last long. Redmond was commended at the time for his professions of goodwill, and the Home Rule Bill became law, accompanied by an Act postponing its application until peace returned.

The outbreak of the Great War in August, 1914, entirely altered the course of F. E. Smith's life. His private practice at the Bar yielded first to the thankless duty of organising the Press Bureau, then to military service with the Indian Corps in France, and finally to his official career which began with his appointment as Solicitor-General. The man who had since 1910 advocated and worked for a National Government was to serve under different leaders in a series of historic coalitions.

On the Thursday evening before war broke out, Mr. Winston

Churchill used F. E. Smith as his intermediary in communications with the Conservative leaders. The Government wished to sound Conservative opinion and discover where it would lie in the event of Germany violating Belgian neutrality. F. E. Smith answered that his own desire was unreservedly to stand by France and Belgium, and that he would obtain the views of his colleagues on this point. He met the leaders of his party at Sir Edward Gouling's house at Wargrave. They included Mr. Bonar Law and Sir Edward Carson. He conferred with them, and wrote to Mr. Churchill: "I have spoken to my friends, of whom you know, and have no doubt that on the facts as we understand them—and more particularly on the assumption (which we understand to be certain) that Germany contemplates a violation of Belgian neutrality—the Government can rely on the support of the Unionist party in whatever manner that support can be most effectively given."

Mr. Churchill wrote back from the Admiralty.

August 1, 1914.

MY DEAR F. E.,—

Very grateful for your letter with its generous and patriotic offer. I read it to the Cabinet, when it produced a profound impression. I cannot think war will be averted now. Germany *must* march through Belgium, and I believe that the bulk of both parties will stand firm against that. I really think you and B. L. ought to be in London on Sunday. It would give me great pleasure if you would both come and lunch or dine with me here. I could put you thoroughly *au fait*.

Yours always,

W.

Mr. Asquith was coping with pacifism and dissension in his Cabinet, and was greatly reassured to feel that at this dark moment he had the great phalanx of Conservatism solidly behind him.

We have traced F. E. Smith's life as far as August 1914. He was already, by then, an orator, who could inflame multitudes by the passion of the spoken word, in speeches which came from a rich and tireless spring of fertility. As yet he appeared one who adored the adventure rather than climbed the treadmill of politics. To those who had watched him with Carson reviewing the Covenanters on his beautiful horse,



PRIVATE SIDNEY SMITH, MAJOR F. E. SMITH AND
LIEUTENANT HAROLD SMITH

and harnessing his supple eloquence to the doctrine of rebellion, he appeared again as the youthful and vivid Romantic who with flying cloak galloped in his dreams with D'Artagnan, or dived into the moonlit sea with the Count of Monte Cristo. His true virtues were as yet latent and immature. The faculty of constructive statesmanship was still denied to him; he remained the flashing swordsman of forensic and Parliamentary contests, the undefeated master of jibes and retorts that flew like winged shuttlecocks. Battle was still the breath of his nostrils. Men knew this and thronged to watch him as one watches a matador rending and destroying with consummate artistry and skill. So the impression grew that he was unwary in action as he was wounding in argument. Later, in Cabinet, he was to reveal truer and nobler powers—show himself smooth and patient in discussion, sublimely tactful in negotiation, yet forceful and intrepid in speech. At first the full sweep of his intellect was clouded by the impression that he was the advocate of the cause of embittered resistance, and a brilliant début had retarded the recognition of constructive powers.

The course of politics, too, had deflected his talents into the support of desperate causes. Fearless and justifiable as we now believe his attitude to Home Rule and the Parliament Bill to have been, his resistance to these measures stamped him again in the eyes of opponents as a man who was always brilliant in the breach and the assault. Had he died in 1914, and never held office, he would have been remembered principally as a man who had squandered an amazing intellectual gift upon the service of a Party and the advancement of a career. The supremest form of courage, that of restraint and prescience, would have been denied to him, and all the persuasive arts which went to its fruition would never have been seen.

In the Courts his reputation was secure as one of the two foremost advocates of his day. By 1914 he was making £30,000 a year at the Bar with little apparent effort, working with extraordinary speed and concentration.

Such was his position in August 1914, when the outbreak of War ended his private practice at the Bar, hurled Party politics into the melting-pot, and disclosed to him a new and more spacious arena.

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